



## SUPPLEMENTAL MEMORANDUM

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DATE: August 24, 2022

TO: Chair Aspinnall and Members of the Planning Commission

FROM: Robert D. Dalquest, Development Services Director *RDD*

PREPARED BY: Joshua Winter, Senior Planner

RE: Minor modifications to the resolutions, Mitigation Measures (MM), Specific Plan Document and clarification of the city park analysis within section XVI. Recreation of the IS/MND

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This memorandum is to advise the Planning Commission that the Resolution(s) have been corrected as follows:

1. Exhibit A: Within the title, staff modified the General Plan Designation from "Light Industrial (LI)" to Light Industrial/Business Park (LI/BP) and added "Mitigation monitoring and Reporting Program".
2. Exhibit A: Staff has modified COA 10.8 (MM LU-1) to include the italicized language. The language will provide more construction flexibility to the developer to meet the mitigation requirements for noise reduction.

*"Minimum exterior wall requirement of STC 46 with a construction of standard 3/8-inch exterior one coat stucco over 1.0-inch rigid R-4 insulation over 1/2-inch shearwall on 2x6 studs with 5/8 inch Type "X" Drywall or similar materials achieving the STC 46. The Development Services Director or designee shall verify similar materials are adequate to meet the requirements of STC 46.*

3. Exhibit A: Staff has fixed section numbering.
4. Exhibit A: Staff has added "Section 3, Determination" which reads: "Based on the findings and mitigation measures above, the Planning Commission hereby recommends that the City Council of the City of Upland adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project."
5. Exhibit B: Within the title, staff modified the General Plan Designation from "Light Industrial (LI)" to Light Industrial/Business Park (LI/BP).
6. Exhibit B: Staff has clarified Section 1, Findings, subsection (B)(1)(Evidence) as Follows:

The proposed General Plan Amendment is in the public interest because the amendment shows consistency with the General Plan as discussed within the Specific Plan Chapter 1. The amendment will result in ~~includes~~ the redevelopment of a former industrial use into a new residential neighborhood consistent with surrounding uses. The project improves the South-East Quadrant of the City ~~by~~, as directed in the General Plan. The project includes new landscaping and pedestrian connectivity thereby activating an area currently used for industrial purposes. In addition, the density, *which will be*, 13.2 dwelling units per acre is generally consistent with surrounding residential neighborhoods.

7. Exhibit C: Staff has clarified Section 1, Findings, subsection (B)(4)(Evidence) as follows:

The proposed General Plan Amendment has been processed in accordance with the applicable provisions of the California Government Code including Title 7, Division 1, Chapter 3, Article 8, Section 65350 which regulates the amendment of General Plans and, specifically sections 65450-57, which grants authority to cities to adopt specific plans for purposes of implementing the goals and policies of their general plans. Pursuant to the California Environmental Quality Act (CEQA) Guidelines and the City's Local Guidelines, an Initial Study and Mitigated Negative Declaration (IS/MND) was prepared pursuant to Sections 15063(c) and 15070 of the California Environmental Quality Act Guidelines and the City of Upland CEQA Guidelines to address the potential environmental effects of the proposed project. Initial Study (IS) was prepared to determine the environmental effects created by the project. Based on the findings contained in the Initial Study, it was determined that Mitigation Measures related to Cultural Resources, Land Use Planning, Noise and Vibration and Tribal Cultural Resources. Based on that determination, a Mitigated Negative Declaration (MND) was prepared. A Mitigation Monitoring and Reporting Program has also been prepared to ensure implementation of, and compliance with, the mitigation measures for the Project.

8. Exhibit B: Staff has deleted "The Storm Drain Improvement plans show the basin will continue to operate adequately." From Section 1, Findings, subsection (C)(3)(Evidence) as the sentence is not applicable to the project.

9. Exhibit C: Staff has modified the following Conditions of Approval (COA) as requested by the Public Works Department:

COA 30.18

Original: Proposed on-site sewer and water lines shall be private and to be maintained by the owner; Drainage facilities shall be maintained by the owner/property owner's association which shall be established in the HOA's Covenant, Conditions & Restrictions (CC&R).

Proposed: Proposed on-site sewer, waterlines, and drainage facilities that are private shall be maintained by the homeowner's association. which shall be established in the HOA's Covenant, Conditions & Restrictions (CC&R).

COA 30.36

Original: Appropriate water utility easements for water facility locations shall be shown on water plans. Underground utilities shall maintain a minimum seven-foot setback from the face of curb or gutter flowline and shall not encroach into the water utility easement, excepting as may be authorized by the Public Works Director subject to special construction methods. As-built plans of all underground utilities, including water facilities, shall be submitted prior to final approval of the development.

Proposed: Appropriate water utility easements for water facility locations shall be shown on water plans. Public water lines shall maintain a minimum seven-foot setback from the face of curb or gutter flowline. Other utilities shall not encroach into the water utility easement, excepting as may be authorized by the Public Works Director subject to special construction methods. As-built plans of all underground utilities, including water facilities, shall be submitted prior to final approval of the development. The portion of water from 14th Avenue, serving the Cherokee property, will remain public.

10. Exhibit C: Modify COA 80.8 (MM LU-1) to include the italicized language. The language will provide more construction flexibility to the developer to meet the mitigation requirements for noise reduction.

*"Minimum exterior wall requirement of STC 46 with a construction of standard 3/8-inch exterior one coat stucco over 1.0-inch rigid R-4 insulation over 1/2-inch shearwall on 2x6 studs with 5/8 inch Type "X" Drywall or similar materials achieving the STC 46. The Development Services Director or designee shall verify similar materials are adequate to meet the requirements of STC 46."*

Redlines versions of the Exhibit A, B and C are attached for Planning Commission review.

### **Clarification of IS/MND Section XVI Recreation**

The City's Draft IS/MND evaluated the project using published data from the City's Recreation and Community Services Division, which indicates the City currently operates and maintains 13 parks, including 6 neighborhood parks, 5 community parks, and 2 mini parks, totaling 118.5 acres of park land. Utilizing that information, the Draft IS/MND determined that based upon the City's 2020 population of 79,040 (U.S. Census Bureau, 2022). Using the City's standard of 3.0 acres of parkland per 1,000 persons, the City would need 237 acres of parkland, representing an existing parkland deficiency of 118.5 acres. The Draft IS/MND further identifies that the Quimby Act authorizes the legislative body of a city or county to require the dedication of land or to impose fees for park or recreational purposes as a condition of the approval of a tentative map, if specified requirements are met. As such, UMC Section 3.44.020 establishes a park acquisition and development fee on issuance of all building permits for development within the boundaries of the City to pay for acquiring of and improvement to land designated for park use, which would contribute to reducing potential park land impacts on a project-by-project basis. The project would be required to pay the applicable fee prior to the issuance of occupancy permits, therefore impacts would be less than significant.

For clarification, The Planning Division has further analyzed to total park and recreation facilities, as shown in the City's General Plan Figure OSC-1, the City currently provides of 3.67 acres per 1,000 residents citywide when all areas are counted (see table below). With the addition of the 64 units and approximately 181 residents (assuming that all residents relocate from outside of the City), the City would be required to provide 237 acres of park land. As shown in the table below, there are currently 288.35 acres devoted to public park and recreational facilities, greater than the acreage required to meet the established standard, and more than originally identified in the Draft IS/MND. The project applicant is still required to pay the park acquisition and development fee per UMC 3.44.020, and the conclusions of the IS/MND do not change. To formally address this information, and errata will be prepared for the Draft IS/MND prior to the final adoption by the City Council.

<b>Total Park and Recreational Facilities Acreage</b>	
Park and Recreation Facilities	Acres
Magnolia Park	6.93
Sierra Park	6.81
Memorial Park	48.95
Olivedale Park	6.66
Citrus Park	5.84
Fern Reservoir Park	0.89
Baldy View Park	5.00
Cabrillo Park	20.70
Greenbelt Park	9.50
McCarthy Park	5.41
San Antonio Park	14.31
Sycamore Hills Future Sports Park	58.29
<b>Sub-Total:</b>	<b>189.29</b>
Euclid Avenue Trail (Foothill Boulevard to 24th Street)	22.54
Euclid Avenue Trail (7th Street to Foothill Boulevard)	8.34
Pacific Electric Trail	68.18
<b>Total Acreage:</b>	<b>288.35</b>
Population of Upland	79,040
Park Standard (3 acres per 1,000 residents)	<b>3.67 acres per 1,000</b>

### Mitigation Measure LU-1

Within the IS/MND and Mitigation Monitoring and Reporting Program (MMRP), MM LU-1 will be formally modified as part of the errata for City Council final approval. As with the mentioned COA changes above, the new mitigation measure will be modified to include the italicized language:

"LU-1: Minimum exterior wall requirement of STC 46 with a construction of standard 3/8-inch exterior one coat stucco over 1.0-inch rigid R-4 insulation over 1/2-inch shearwall on 2x6 studs with 5/8 inch Type "X" Drywall *or similar materials achieving the STC 46. The Development Services Director or designee shall verify similar materials are adequate to meet the requirements of STC 46.*"

### Specific Plan Change

Prior to bringing the project for approval to City Council, the words "Shall Apply" have been added to the Specific Plan Document on Page 4-2 as shown in Exhibit D.

**RESOLUTION NO.**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UPLAND, CALIFORNIA RECOMMENDING THE CITY COUNCIL ADOPT THE MITIGATED NEGATIVE DECLARATION AND MITIGATION ~~MEASURES~~ MONITORING AND REPORTING PROGRAM (EAR-21-0010) FOR GENERAL PLAN AMENDMENT NO. GPA-21-0002 TO AMEND THE GENERAL PLAN LAND USE DESIGNATION OF THE PROJECT SITE FROM LIGHT INDUSTRIAL /BUSINESS PARK (LI-BP) TO SPECIFIC PLAN (SP), ZONE CHANGE NO. ZC-21-0002 TO AMEND THE ZONING DESIGNATION OF THE PROJECT SITE FROM LIGHT INDUSTRIAL (LI) TO SPECIFIC PLAN (SP) AND SPECIFIC PLAN NO. SP-21-0002 TO ESTABLISH THE ROSE GLEN SPECIFIC PLAN AND TENTATIVE TRACT NO. TT-21-0002 (TT-20519) TO SUBDIVIDE ONE (1) PARCEL INTO 13 NUMBERED LOTS AND 16 LETTERED LOTS AND DEVELOPMENT PLAN REVIEW NO. DPR-21-0009 FOR THE DEVELOPMENT OF 64 SINGLE-FAMILY CONDOMINIUM RESIDENTIAL UNITS, LANDSCAPING, OPEN SPACE AND RELATED SITE IMPROVEMENTS CONSISTENT WITH THE ROSE GLEN SPECIFIC PLAN**

**Intent of the Parties and Findings**

WHEREAS, Century Communities c/o Brian Taylor. (Applicant) has filed applications requesting approval of the Project; and

WHEREAS, the development is considered a project as defined by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq.; and

WHEREAS, The City of Upland is the lead agency for the preparation and consideration of environmental documents for the Project, as defined in the California Environmental Quality Act and the State of California Guidelines for the Implementation of the California Environmental Quality Act; and

WHEREAS, The California Environmental Quality Act (Public Resources Code Section 21000, et seq., and the California Environmental Quality Act Guidelines, 14 California Code of Regulations section 15000, et seq., collectively, "CEQA") requires a lead agency to prepare a Mitigated Negative Declaration for projects that could have a significant impact on the environment without mitigation; and

WHEREAS, The City of Upland conducted its own independent analysis of the Mitigated Negative Declaration and Mitigation Measures prior to releasing it for public review and determined that the Mitigated Negative Declaration and Mitigation Measures were appropriate as there is substantial evidence the Project would not result in any significant environmental impacts; and

WHEREAS, The Mitigated Negative Declaration identified environmental impacts that potentially could be significant unless mitigated, prompting the preparation of mitigation measures, as detailed in the Mitigated Negative Declaration.

All of the impacts identified in the Mitigated Negative Declaration as potentially significant could be reduced to a *less than significant* level through implementation of the mitigation measures identified in the IS/MND;

WHEREAS, An Initial Study/Mitigated Negative Declaration (MND) was prepared in compliance with the requirements of the California Environmental Quality Guidelines; a complete copy of the draft document is on file and can be viewed in the Development Services Department and on the City's website at [www.uplandca.gov/environmental-review](http://www.uplandca.gov/environmental-review); and

WHEREAS, In accordance with CEQA Guidelines Section 15073, a Notice of Intent and Notice of Availability was issued for the Draft Initial Study (IS) and Mitigated Negative Declaration (MND) for a 30-day public review and comment period beginning on July 5, 2022 through August 4, 2022; and

WHEREAS, the City of Upland Planning Division on August 11, 2022 posted two (2) true and correct copies of the legal notice at the Upland City Hall Bulletin Board and at the Upland Public Library in accordance with the Upland Municipal Code Section 17.46.020; and

WHEREAS, the City of Upland Planning Division on August 10, 2022, mailed the public hearing notice to each property owner within a 500-foot radius of the project site indicating the date and time of the public hearing in compliance with state law concerning the Project; and

WHEREAS, the City of Upland Planning Division on August 12, 2022, published a legal notice in the Inland Valley Daily Bulletin, a local paper of general circulation, indicating the date and time of the public hearing in compliance with state law concerning the Project; and

NOW, THEREFORE, the Planning Commission hereby finds, determines and resolves as follows:

Section 1. **FINDINGS.** The Planning Commission hereby makes the following findings and determinations in connection with the recommendation for adoption of the IS/MND:

- A. The above Recitals are true and correct and are incorporated herein by this reference.
  - a. The City, in its capacity as the lead agency, has prepared an Initial Study and Mitigated Negative Declaration for the Project. The purpose of the Initial Study was to determine whether the Project could have a potentially significant effect on the environment and to identify and impose the appropriate project mitigation measures to avoid such impacts or reduce them to a less-than-significant level.
  - b. The Initial Study and Mitigated Negative Declaration reflect the City's independent judgment and analysis.

- c. The Mitigated Negative Declaration was prepared in accordance with all legal requirements, including all public notice and comment period requirements, set forth in the California Environmental Quality Act Guidelines.
- d. The Initial Study examined all of the relevant environmental issues associated with the Project, and is a complete and adequate environmental document under the requirements of the California Environmental Quality Act Guidelines. Specifically, the City Council supports the conclusions of the Initial Study and the mitigation measures proposed by the Mitigated Negative Declaration, as both documents are supported by substantial evidence.
- e. There is no substantial evidence in the record that the Project, as mitigated, will have a significant effect on the environment for areas analyzed in the Initial Study, including Cultural Resources, Land Use Planning, Noise and Vibration and Tribal Cultural Resources. As discussed in the Initial Study analysis, mitigation measures have been identified that, when implemented, will avoid or reduce each of these impacts to *less than significant* levels.
- f. Unless specifically stated to the contrary in these Findings, it is the City's intent to adopt all mitigation measures recommended by the Mitigated Negative Declaration that are applicable to the Project. If a measure has, through error, been omitted from the Conditions of Approval or from these Findings, and that measure is not specifically reflected in these Findings, that measure shall be deemed to be adopted pursuant to this paragraph. In addition, unless specifically stated to the contrary in these Findings, all Conditions of Approval repeating, or rewording mitigation measures recommended in the Mitigated Negative Declaration are intended to be substantially similar to the mitigation measures recommended in the Mitigated Negative Declaration and are found to be equally effective in avoiding or lessening the identified environmental impact.

Potentially Significant Impacts: The following is a list of each potentially significant impact of the Project. The title of each impact (e.g. Impact CUL-1) corresponds with the discussion of each impact contained in the Initial Study. Each potential impact is followed by a mitigation measure or measures. Each impact and mitigation measure is followed by an appropriate finding, in accordance with CEQA requirements. Each finding is based on the corresponding discussion of each impact contained in the Initial Study (which discussion is incorporated into the finding by this reference), the staff report to the City Council and the record as a whole. In each case, the mitigation measures listed below reduce the potential impact to a less-than-significant level.

## Section 2 REQUIRED MITIGATION MEASURES

- 10.1 All Mitigation Measures Listed below are also added as conditions if approval to the Project.

10.2 CUL-1: Retain a Qualified Archaeologist.

Prior to the acquisition of a demolition permit, the Project Applicant shall retain the services of a qualified archaeologist meeting the Secretary of Interior Professional Qualifications Standards to oversee the archaeological monitoring program and develop a Cultural Resource Management Plan (CRMP) in partnership with the Consulting Tribes. The CRMP shall document the monitoring and reporting procedures for archaeological and Native American monitoring, and develop a single set of monitoring procedures that is consistent with the minimum requirements outlined in the MMRP (Cultural and Tribal Cultural Resources) and Project's Conditions of Approval. Discrepancies between cultural and tribal cultural mitigation measures shall be addressed in the CRMP while adhering to the legal requirements of each measure, as documented in the MMRP. The Qualified Archaeologist shall provide each Consulting Tribe an opportunity to review and comment on the CRMP prior to submitting to the City. The CRMP must be approved by the City prior to issuance of the demolition permit.

An archaeological monitor shall be present on-site during the construction phases that involve ground-disturbing activities, which may include, but are not limited to, pavement removal, potholing or augering, grubbing, tree removals, boring, grading, excavation, drilling, and trenching, within the Project area. The on-site monitoring shall end when the Project site grading and excavation activities are completed, or when the Qualified Archaeologist determines that the Project site has a low potential for impacting archaeological resources.

10.3 CUL-2: Unanticipated Discovery of Archaeological Resources.

Upon discovery of any archaeological resources, cease construction activities in the immediate vicinity of the find until the find can be assessed. All archaeological resources unearthed by project construction activities shall be evaluated by the qualified archaeologist. Work may continue on other parts of the project while evaluation and, if necessary, treatment or mitigation takes place (CEQA Guidelines Section 15064.5 [f]). If a resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource", time allotment and funding sufficient to allow for implementation of avoidance measures, or appropriate mitigation, must be available. The treatment plan established for the resources shall be in accordance with CEQA Guidelines Section 15064.5(f) for historical resources and Public Resources Code Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource, along with subsequent laboratory processing and analysis. Any historic archaeological material that is not



Native American in origin shall be paid to be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be offered to a local school or historical society in the area for educational purposes.

10.4 CUL-3: Monitoring and Treatment Plan.

If significant archeological resources, as defined by CEQA (as amended, 2019), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, in coordination with the Consulting Tribes per mitigation measures TCR-1, TCR-2, and TCR-3, and all subsequent finds shall be subject to this Plan.

10.5 CUL-4: Archaeological/Cultural Reports.

Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the project Applicant and City for dissemination to the Consulting Tribes. The City and/or project Applicant shall, in good faith, consult with the Consulting Tribes throughout the life of the Project.

10.6 CUL-5: Unanticipated Discovery of Human Remains and Associated Funerary Objects.

- A. Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute.
- B. If Native American human remains and/or grave goods discovered or recognized on the project site, then all construction activities shall immediately cease. Health and Safety Code Section 7050.5 dictates that any discoveries of human skeletal material shall be immediately reported to the County Coroner and all ground-disturbing activities shall immediately halt and shall remain halted until the coroner has determined the nature of the remains. If the coroner recognizes the human remains to be those of a Native American or has reason to believe they are Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission, and Public Resources Code Section 5097.98 shall be followed.
- C. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2).
- D. Construction activities may resume in other parts of the project site at a minimum of 200 feet away from discovered human remains and/or burial goods if the consulting tribe(s) determine that

resuming construction activities at that distance is acceptable, and provides the project manager express consent of that determination (along with any other mitigation measures the consulting tribe(s) and/or archaeologist deems necessary). (CEQA Guidelines Section 15064.5(f).)

- E. Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods. Any historic archaeological material that is not Native American in origin (non-TCR) shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, it shall be offered to a local school or historical society in the area for educational purposes.
- F. Any discovery of human remains/burial goods shall be kept confidential to prevent further disturbance.

10.7 CUL-6: Resource Assessment & Continuation of Work Protocol.

Upon discovery, the tribal and/or archaeological monitor(s)/consultant(s) will immediately divert work at minimum of 200 feet and place an exclusion zone around the burial. The monitor(s)/consultant(s) will then notify the consulting Tribe(s), the qualified lead archaeologist, and the construction manager, who shall contact the County Coroner, pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project. Work will continue to be diverted while the Coroner determines whether the remains are Native American. The discovery is to be kept confidential and secure to prevent any further disturbance. If the finds are determined to be Native American, the coroner will notify the NAHC as mandated by state law, who will then appoint a Most Likely Descendent(s) (MLD). The treatment of human remains, ceremonial, and burial items will comply with the MLD's burial treatment policy. If multiple MLDs are identified by the NAHC, treatment will be approved by all MLDs prior to executing treatment.

10.8 LU-1: Noise-attenuating Building Materials.

For the project's habitable areas (both living rooms and bedrooms) within 50 feet of East Arrow Highway and the Cherokee Wood Products site, the following measures shall be incorporated in the design of the project to reduce interior noise levels to 45 CNEL or less:

- Minimum exterior wall requirement of STC 46 with a construction of standard 3/8-inch exterior one coat stucco over 1.0-inch rigid R-4 insulation over 1/2-inch shearwall on 2x6 studs with 5/8 inch Type "X" Drywall or similar materials achieving the STC 46. The Development Services Director or designee shall verify similar materials are adequate to meet the requirements of STC 46.

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- Minimum window requirement of STC 28 with a vinyl frame window construction of dual glazing window thickness 1/8-inch and 1/2-inch air gap.
- Appropriate means of air circulation and provision of fresh air intake shall be incorporated in the project to allow windows to remain closed for extended intervals of time so that acceptable levels of noise can be maintained on the interior.

Buildings shall provide mechanical ventilation in accordance with the 2019 California Mechanical Code.

10.9 NOI-1: Construction Noise Management Plan.

Noise levels from project-related construction activities shall not exceed 65 dBA, defined as 10 dBA above the daytime baseline ambient noise levels defined in the City Municipal Code (55 dBA for residential uses), as measured at the neighboring land use. A Construction Management Plan that describes the measures included on the construction plans to ensure compliance with the noise limit shall be prepared by the project applicant and submitted to the City of Upland for approval prior to issuance of the grading permit. The following measures may be included to reduce construction noise:

- Construction equipment to be properly outfitted and maintained with manufacturer-recommended noise-reduction devices.
- Diesel equipment to be operated with closed engine doors and equipped with factory-recommended mufflers.
- Mobile or fixed "package" equipment (e.g., arc-welders and air compressors) to be equipped with shrouds and noise control features that are readily available for that type of equipment.
- Electrically powered equipment to be used instead of pneumatic or internal-combustion powered equipment, where feasible.
- Unnecessary idling of internal combustion engines (e.g., in excess of 5 minutes) to be prohibited.
- Material stockpiles and mobile equipment staging, parking, and maintenance areas to be located as far as practicable from noise sensitive receptors.
- The use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only.
- No project-related public address or music system shall be audible at any adjacent sensitive receptor.

- Temporary sound barriers or sound blankets may be installed between construction operations and adjacent noise-sensitive receptors. Due to equipment exhaust pipes being approximately 7 to 8 feet above ground, a sound wall at least 10 feet in height above grade as measured at the neighboring parcels, would be located along the southern property line between the project and neighboring residences to mitigate noise levels to within acceptable levels. If barriers are to be used, the sound barrier should be constructed of a material with a minimum weight of two pounds per square foot with no gaps or perforations and remain in place until the conclusion of demolition, grading, and construction activities.
- The project applicant shall notify residences within 100 feet of the project's property line in writing within one week of any construction activity such as demolition, concrete sawing, asphalt removal, and/or heavy grading operations. The notification shall describe the activities anticipated, provide dates and hours, and provide contact information with a description of a complaint and response procedure.
- The on-site construction supervisor shall have the responsibility and authority to receive and resolve noise complaints. A clear appeal process for the affected resident shall be established prior to construction commencement to allow for resolution of noise problems that cannot be immediately solved by the site supervisor.

10.10 MM TCR-1, Gabrieleno Band of Mission Indians - Kizh Nation

- A. Retain a Native American Monitor Prior to Commencement of Ground-Disturbing Activities
- I. The project applicant/lead agency shall retain a Native American Monitor from or approved by the Gabrieleno Band of Mission Indians - Kizh Nation. The monitor shall be retained prior to the commencement of any "ground-disturbing activity" for the subject project at all project locations (i.e., both on-site and any off-site locations that are included in the project description/definition and/or required in connection with the project, such as public improvement work). "Ground-disturbing activity" shall include, but is not limited to, demolition, pavement removal, potholing, auguring, grubbing, tree removal, boring, grading, excavation, drilling, and trenching.
  - II. A copy of the executed monitoring agreement shall be submitted to the lead agency prior to the earlier of the commencement of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity.

- III. The monitor will complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground-disturbing activities, soil types, cultural-related materials, and any other facts, conditions, materials, or discoveries of significance to the Tribe. Monitor logs will identify and describe any discovered Tribal Cultural Resources, including but not limited to, Native American cultural and historical artifacts, remains, places of significance, etc., (collectively, tribal cultural resources, or "TCR"), as well as any discovered Native American (ancestral) human remains and burial goods. Copies of monitor logs will be provided to the project applicant/lead agency upon written request to the Tribe.
  - IV. On-site tribal monitoring shall conclude upon the latter of the following (1) written confirmation to the Kizh from a designated point of contact for the project applicant/lead agency that all ground-disturbing activities and phases that may involve ground-disturbing activities on the project site or in connection with the project are complete; or (2) a determination and written notification by the Kizh to the project applicant/lead agency that no future, planned construction activity and/or development/construction phase at the project site possesses the potential to impact Kizh TCRs.
  - V. Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by the Kizh monitor and/or Kizh archaeologist. The Kizh will recover and retain all discovered TCRs in the form and/or manner the Tribe deems appropriate, in the Tribe's sole discretion, and for any purpose the Tribe deems appropriate, including for educational, cultural and/or historic purposes.
- B. Unanticipated Discovery of Human Remains and Associated Funerary Objects
- I. Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute.
  - II. If Native American human remains and/or grave goods discovered or recognized on the project site, then all construction activities shall immediately cease. Health and Safety Code Section 7050.5 dictates that any discoveries of human skeletal material shall be immediately reported to the County Coroner and

all ground-disturbing activities shall immediately halt and shall remain halted until the coroner has determined the nature of the remains. If the coroner recognizes the human remains to be those of a Native American or has reason to believe they are Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission, and Public Resources Code Section 5097.98 shall be followed.

III. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2).

IV. Construction activities may resume in other parts of the project site at a minimum of 200 feet away from discovered human remains and/or burial goods, if the Kizh determines in its sole discretion that resuming construction activities at that distance is acceptable and provides the project manager express consent of that determination (along with any other mitigation measures the Kizh monitor and/or archaeologist deems necessary). (CEQA Guidelines Section 15064.5(f)).

V. Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods. Any historic archaeological material that is not Native American in origin (non-TCR) shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, it shall be offered to a local school or historical society in the area for educational purposes.

VI. Any discovery of human remains/burial goods shall be kept confidential to prevent further disturbance.

#### C. Procedures for Burials and Funerary Remains

- I. As the Most Likely Descendant ("MLD"), the Koo-nas-gna Burial Policy shall be implemented. To the Tribe, the term "human remains" encompasses more than human bones. In ancient as well as historic times, Tribal Traditions included, but were not limited to, the preparation of the soil for burial, the burial of funerary objects with the deceased, and the ceremonial burning of human remains.
- II. If the discovery of human remains includes four or more burials, the discovery location shall be treated as a cemetery and a separate treatment plan shall be created.
- III. The prepared soil and cremation soils are to be treated in the same manner as bone fragments that remain intact. Associated funerary

objects are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later; other items made exclusively for burial purposes or to contain human remains can also be considered as associated funerary objects. Cremations will either be removed in bulk or by means as necessary to ensure complete recovery of all sacred materials.

- IV. In the case where discovered human remains cannot be fully documented and recovered on the same day, the remains will be covered with muslin cloth and a steel plate that can be moved by heavy equipment placed over the excavation opening to protect the remains. If this type of steel plate is not available, a 24-hour guard should be posted outside of working hours. The Tribe will make every effort to recommend diverting the project and keeping the remains in situ and protected. If the project cannot be diverted, it may be determined that burials will be removed.
- V. In the event preservation in place is not possible despite good faith efforts by the project applicant/developer and/or landowner, before ground-disturbing activities may resume on the project site, the landowner shall arrange a designated site location within the footprint of the project for the respectful reburial of the human remains and/or ceremonial objects.
- VI. Each occurrence of human remains and associated funerary objects will be stored using opaque cloth bags. All human remains, funerary objects, sacred objects and objects of cultural patrimony will be removed to a secure container on site if possible. These items should be retained and reburied within six months of recovery. The site of reburial/repatriation shall be on the project site but at a location agreed upon between the Tribe and the landowner at a site to be protected in perpetuity. There shall be no publicity regarding any cultural materials recovered.
- VII. The Tribe will work closely with the project's qualified archaeologist to ensure that the excavation is treated carefully, ethically and respectfully. If data recovery is approved by the Tribe, documentation shall be prepared and shall include (at a minimum) detailed descriptive notes and sketches. All data recovery data recovery-related forms of documentation shall be approved in advance by the Tribe. If any data recovery is performed, once complete, a final report shall be submitted to the Tribe and the NAHC. The Tribe does NOT authorize any scientific study or the utilization of any invasive and/or destructive diagnostics on human remains.

A. Retain a Native American Monitor Prior to Commencement of Ground-Disturbing Activities

- I. The project applicant/lead agency shall retain a Native American Monitor from or approved by the San Gabriel Band of Mission Indians. The monitor shall be retained prior to the commencement of any ground-disturbing activity for the subject project at all project locations.
- II. A copy of the executed monitoring agreement shall be submitted to the lead agency prior to the earlier of the commencement of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity.
- III. On-site tribal monitoring shall continue until the San Gabriel Band of Mission Indians, in concurrence with project archaeologist, agrees that monitoring activities may be reduced or concluded.
- IV. Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by the San Gabriel Band of Mission Indians monitor.
- V. Upon discovery of any TCRs, prehistoric resources, or historic-era resources considered significant by the San Gabriel Band of Mission Indians, the project must produce a treatment plan to be reviewed and agreed upon by the San Gabriel Band of Mission Indians prior to executing testing or treatment efforts.

10.12 TCR-3, Yuhaaviatam of San Manuel Nation

A. Cultural Resources

- I. In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed within MM TCR-4-B, regarding any pre-contact and/or historic-era finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.
- II. If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to YSMN for review and comment, as detailed within MM TCR-3-B-I. The archaeologist shall monitor the remainder of the



project and implement the Plan accordingly.

III. If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

**B. YSMN Tribal Cultural Resources**

I. The Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed in MM TCR-3-A-II, of any pre-contact and/or historic-era cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site.

II. Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.

Note: YSMN realizes that there may be additional tribes claiming cultural affiliation to the area; however, YSMN can only speak for itself. The Nation has no objection if the agency, developer, and/or archaeologist wishes to consult with other tribes in addition to YSMN and if the Lead Agency wishes to revise the conditions to recognize additional tribes.

Section 3. DETERMINATION. Based on the findings and mitigation measures above, the Planning Commission hereby recommends that the City Council of the City of Upland adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project.

Section 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). Pursuant to the California Environmental Quality Act (CEQA) Guidelines and the City's local Guidelines, an Initial Study and Mitigated Negative Declaration (IS/MND) was prepared pursuant to Sections 15063(c) and 15070 of the California Environmental Quality Act Guidelines and the City of Upland CEQA Guidelines to address the potential environmental effects of the proposed project. Initial Study (IS) was

prepared to determine the environmental effects created by the project. Based on the findings contained in the Initial Study, it was determined that Mitigation Measures related to Cultural Resources, Land Use Planning, Noise and Vibration and Tribal Cultural Resources. Based on that determination, a Mitigated Negative Declaration (MND) was prepared. A Mitigation Monitoring Program has also been prepared to ensure implementation of, and compliance with, the mitigation measures for the Project.

Section 5. SEVERABILITY. If any section, subsection, subdivision, sentence, or clause or phrase in this Resolution or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof. The Planning Commission hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective.

Section 6. CERTIFICATION. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this Resolution, and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Section 7. EFFECTIVE DATE. This Resolution shall become effective ten (10) days after its passage and adoption unless appealed prior to that time.

PASSED, APPROVED and ADOPTED this 24<sup>th</sup> day of August, 2022.

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Robin Aspinall, CHAIR

ATTEST:

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Robert D. Dalquest, SECRETARY

I HEREBY CERTIFY that the foregoing Resolution was duly and regularly passed and adopted by the Planning Commission of the City of Upland at a regular adjourned meeting thereof held on the 24<sup>th</sup> day of August, 2022, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

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Robert D. Dalquest, SECRETARY

## **RESOLUTION NO.**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UPLAND, CALIFORNIA RECOMMENDING THE CITY COUNCIL APPROVE GENERAL PLAN AMENDMENT NO. GPA-21-0002 TO AMEND THE GENERAL PLAN LAND USE DESIGNATION OF THE PROJECT SITE FROM LIGHT INDUSTRIAL/BUSINESS PARK (LI-BP) TO SPECIFIC PLAN (SP), ZONE CHANGE NO. ZC-21-0002 TO AMEND THE ZONING DESIGNATION OF THE PROJECT SITE FROM LIGHT INDUSTRIAL (LI) TO SPECIFIC PLAN (SP) AND SPECIFIC PLAN NO. SP-21-0002 TO ESTABLISH THE ROSE GLEN SPECIFIC PLAN.**

### **Intent of the Parties and Findings**

WHEREAS, Century Communities c/o Brian Taylor. (Applicant) has filed applications requesting approval of the Rose Glen Specific Plan; and

WHEREAS, The State of California Government Code Section 65300 requires the City to adopt and maintain a General Plan that contains certain elements, describes its long-term goals, and develop policies and programs to achieve those goals;

WHEREAS; The State of California Government Code Section Government Code 65450-57 grants authority to cities to adopt specific plans for purposes of implementing the goals and policies of their general plans;

WHEREAS, Upland Municipal Code Section 17.43.050(E) requires that if one or more permit application is submitted concurrently for a single proposed project, each application shall be acted upon concurrently by the highest review authority. In this case, the highest review authority is the City Council, therefore the Planning Commission shall make a recommendation; and

WHEREAS, the project is considered a project as defined by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq.; and

WHEREAS, In accordance with CEQA Guidelines Section 15073, a Notice of Intent and Notice of Availability was issued for the Draft Initial Study (IS) and Mitigated Negative Declaration (MND) for a 30-day public review and comment period beginning on July 5, 2022 through August 4, 2022; and

WHEREAS, the City of Upland Planning Division on August 11, 2022 posted two (2) true and correct copies of the legal notice at the Upland City Hall Bulletin Board and at the Upland Public Library in accordance with the Upland Municipal Code Section 17.46.020; and

WHEREAS, the City of Upland Planning Division on August 10, 2022, mailed the public hearing notice to each property owner within a 500-foot radius of the project site indicating the date and time of the public hearing in compliance with state law concerning the Project; and

WHEREAS, the City of Upland Planning Division on August 12, 2022, published a legal notice in the Inland Valley Daily Bulletin, a local paper of general circulation, indicating the date and time of the public hearing in compliance with state law concerning the Project; and

NOW, THEREFORE, the Planning Commission hereby finds, determines and resolves as follows:

Section 1. FINDINGS. The Planning Commission hereby makes the following findings and determinations in connection with the approval of the Project:

- A. The above Recitals are true and correct and are incorporated herein by this reference.
- B. Upland Municipal Code Section 17.49.060 provides that the Planning Commission, before it may recommend a General Plan Map Amendment, shall make a determination to allow the activity based upon the following findings:

- 1. Finding: The proposed General Plan Amendment is in the public interest.

Evidence: The proposed General Plan Amendment is in the public interest because the amendment shows consistency with the General Plan as discussed within the Specific Plan Chapter 1. The amendment will result in ~~includes~~ the redevelopment of a former industrial use into a new residential neighborhood consistent with surrounding uses. The project improves the South-East Quadrant of the City ~~by~~, as directed in the General Plan. The project includes new landscaping and pedestrian connectivity thereby activating an area currently used for industrial purposes. In addition, the density, which will be, 13.2 dwelling units per acre is generally consistent with surrounding residential neighborhoods.

- 2. Finding: The proposed General Plan Amendment is consistent and compatible with the rest of the General Plan.

Evidence: The Rose Glen Specific Plan identifies consistency with the General Plan elements including the Land Use Element, Focus Areas Element, Community Character and Urban Design Element, Housing Element, Circulation Element, Open Space and Conservation Element, Healthy Community Element and Safety Element. Analysis is provided in Chapter 1 of the Rose Glen Specific Plan document.

- 3. Finding: The potential effects of the proposed General Plan Amendment have been evaluated and have been determined not to be detrimental to the public health, safety, or welfare.

Evidence: The proposed General Plan Amendment has been evaluated and determined not to be detrimental to the public health, safety, or welfare. Review of the project included a review of environmental effects related to the project including traffic, noise, and air quality, which have been shown to not have any significant impacts. Any environmental effects potential caused by the project have been appropriately mitigated. The project has been reviewed, appropriately conditioned and approved by both the Upland Police Department and the San Bernardino County Fire Department.

4. Finding: The proposed General Plan Amendment has been processed in accordance with the applicable provisions of the California Government Code and CEQA.

Evidence: The proposed General Plan Amendment has been processed in accordance with the applicable provisions of the California Government Code including Title 7, Division 1, Chapter 3, Article 8, Section 65350 which regulates the amendment of General Plans and, specifically sections 65450-57, which grants authority to cities to adopt specific plans for purposes of implementing the goals and policies of their general plans. Pursuant to the California Environmental Quality Act (CEQA) Guidelines and the City's Local Guidelines, an Initial Study and Mitigated Negative Declaration (IS/MND) was prepared pursuant to Sections 15063(c) and 15070 of the California Environmental Quality Act Guidelines and the City of Upland CEQA Guidelines to address the potential environmental effects of the proposed project. Initial Study (IS) was prepared to determine the environmental effects created by the project. Based on the findings contained in the Initial Study, it was determined that Mitigation Measures related to Cultural Resources, Land Use Planning, Noise and Vibration and Tribal Cultural Resources. Based on that determination, a Mitigated Negative Declaration (MND) was prepared. A Mitigation Monitoring and Reporting Program has also been prepared to ensure implementation of, and compliance with, the mitigation measures for the Project.

- C. Upland Municipal Code Section 17.48.060 provides that the Planning Commission, before it may recommend a Zoning Map Amendment, shall make a determination to allow the activity based upon the following findings:

1. Finding: The proposed amendment is consistent with the General Plan and any applicable community or specific plan as provided by Government Code Section 65860.

Evidence: This Zoning Amendment is to amend the Zoning Designation of the project site from Light Industrial (LI) to Specific Plan (SP). Government Code Section 65860 requires a city's zoning ordinance to

be consistent with the general plan, therefore the project is consistent with Government Code Section 65860.

2. Finding: The proposed amendment will not be detrimental to the public interest, health, safety, or welfare of the City.

Evidence: The proposed Zoning Amendment will not be detrimental to the public interest, health, safety, or welfare because the amendment will result in residentially zoned land via the Specific Plan, consistent with the surrounding residential land uses. The project will result in additional property tax generation. All impacts caused by the project have been determined to be less than significant, with potentially significant impacts being required to be mitigated to ensure impacts are less than significant. The project has been reviewed and appropriately conditioned by Building and Safety, Public Works and Police and Fire Services to further ensure public interest, health, safety, or welfare of the City.

3. Finding: The affected site is physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the proposed uses and development will not endanger, jeopardize, or otherwise constitute a hazard to the property, surrounding properties, and the community at large.

Evidence: Plans were submitted with the application that show the zoning amendment that shows the site is physically suitable in terms of design, location, shape, and size. The plans show adequate space for the implementation of the specific plan, including the development of the 64 residential units, private and common open space as well as necessary infrastructure improvements to serve the development. The plans show the proposed architectural and landscape design makes use of appropriate materials, texture, and color, and will remain aesthetically appealing and appropriately maintained. ~~The Storm Drain Improvement plans show the basin will continue to operate adequately.~~ The project has been appropriately conditioned by Police and Fire Services, and mitigation measures have been incorporated into the project to ensure the new development does not endanger, jeopardize, or otherwise constitute a hazard to the property, surrounding properties, and the community at large.

Section 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). Pursuant to the California Environmental Quality Act (CEQA) Guidelines and the City's local Guidelines, an Initial Study and Mitigated Negative Declaration (IS/MND) was prepared pursuant to Sections 15063(c) and 15070 of the California Environmental Quality Act Guidelines and the City of Upland CEQA Guidelines to address the potential environmental effects of the proposed project. Initial Study (IS) was prepared to determine the environmental effects created by the project. Based on

the findings contained in the Initial Study, it was determined that Mitigation Measures related to Cultural Resources, Land Use Planning, Noise and Vibration and Tribal Cultural Resources. Based on that determination, a Mitigated Negative Declaration (MND) was prepared. A Mitigation Monitoring Program has also been prepared to ensure implementation of, and compliance with, the mitigation measures for the Project.

Section 3. SEVERABILITY. If any section, subsection, subdivision, sentence, or clause or phrase in this Resolution or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof. The Planning Commission hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective.

Section 4. CERTIFICATION. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this Resolution, and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Section 5. EFFECTIVE DATE. This Resolution shall become effective ten (10) days after its passage and adoption unless appealed prior to that time.

PASSED, APPROVED and ADOPTED this 24<sup>th</sup> day of August, 2022.

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Robin Aspinall, CHAIR



ATTEST:

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Robert D. Dalquest, SECRETARY

I HEREBY CERTIFY that the foregoing Resolution was duly and regularly passed and adopted by the Planning Commission of the City of Upland at a regular adjourned meeting thereof held on the 24<sup>th</sup> day of August, 2022 by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

---

Robert D. Dalquest, SECRETARY

**RESOLUTION NO.**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UPLAND, CALIFORNIA RECOMMENDING THE CITY COUNCIL APPROVE TENTATIVE TRACT NO. TT-21-0002 (TT-20519) TO SUBDIVIDE ONE (1) PARCEL INTO 13 NUMBERED LOTS AND 16 LETTERED LOTS AND DEVELOPMENT PLAN REVIEW NO. DPR-21-0009 FOR THE DEVELOPMENT OF 64 SINGLE-FAMILY CONDOMINIUM RESIDENTIAL UNITS, LANDSCAPING, OPEN SPACE AND RELATED SITE IMPROVEMENTS CONSISTENT WITH THE ROSE GLEN SPECIFIC PLAN**

**Intent of the Parties and Findings**

WHEREAS, Century Communities c/o Brian Taylor (Applicant) has filed applications requesting approval of the Project; and

WHEREAS, Approval of General Plan Amendment NO. GPA-18-04, Zone Change No. ZC-18-04 and Specific Plan No. SPR-18-02 results in the project site having a General Plan land use designation of Rose Glen Specific Plan (SP) and in within Zoning District Rose Glen Specific Plan (SP), which permits the proposed land use; and

WHEREAS, Upland Municipal Code Section 17.43.050(E) requires that if one or more permit application is submitted concurrently for a single proposed project, each application shall be acted upon concurrently by the highest review authority. In this case, the highest review authority is the City Council, therefore the Planning Commission shall make a Recommendation; and

WHEREAS, Upland Municipal Code Section 17.44 provides that the Planning Commission, before it may recommend the Tentative Parcel Map and Development Plan Review must make findings by resolution, as hereinafter provided, that the evidence presented shows that all of the findings referenced in Section 1 of this Resolution can be made; and

WHEREAS, Upland Municipal Code Section 17.44 provides that the Planning Commission may attach conditions to the approval of the project as needed to ensure compliance with the Zoning Ordinance, other City Ordinances, the General Plan, and any other applicable community or specific plan, previously approved subdivisions and parcel maps and easements; and

WHEREAS, the development is considered a project as defined by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq.; and

WHEREAS, In accordance with CEQA Guidelines Section 15073, a Notice of Intent and Notice of Availability was issued for the Draft Initial Study (IS) and Mitigated Negative Declaration (MND) for a 30-day public review and comment period beginning on July 5, 2022 through August 4, 2022; and

WHEREAS, the City of Upland Planning Division on August 11, 2022 posted two (2) true and correct copies of the legal notice at the Upland City Hall Bulletin Board and at the Upland Public Library in accordance with the Upland Municipal Code Section 17.46.020; and

WHEREAS, the City of Upland Planning Division on August 10, 2022, mailed the public hearing notice to each property owner within a 500-foot radius of the project site indicating the date and time of the public hearing in compliance with state law concerning the Project; and

WHEREAS, the City of Upland Planning Division on August 12, 2022, published a legal notice in the Inland Valley Daily Bulletin, a local paper of general circulation, indicating the date and time of the public hearing in compliance with state law concerning the Project; and

NOW, THEREFORE, the Planning Commission hereby finds, determines and resolves as follows:

Section 1. FINDINGS. The Planning Commission hereby makes the following findings and determinations in connection with the approval of the Project:

- A. The above Recitals are true and correct and are incorporated herein by this reference.
- B. The project is consistent with various goals and policies of the General Plan Land Use Element, Focus Areas Element, Community Character and Urban Design Element, Circulation Element, Open Space and Conservation Element, Healthy Community Element and Safety Element as detailed within the Rose Glen Specific Plan, Chapter 1.
- C. Per Upland Municipal Code Section 17.44.080(F), the review and decision-making authority may approve an application for a parcel or tract map only if the proposed project complies with applicable standards in the Zoning Ordinance, other City ordinances, the General Plan, Subdivision Map Act, and any other applicable community or specific plan, and as supported by all of the following findings:

- 1. Finding: No Lots shall be created without frontage on a public street, except lots created in conjunction with approved private access easements.

Evidence: All lots on site will be served by the development of private streets that connect to the public street system; therefore all lots will have adequate access to the public street.

- 2. Finding: The side lines of the lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.

Evidence: The side lines of all lots run at right angles or radially to the street upon which the lot fronts, excepting the private street system in the project.

3. Finding: Lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding area except where a deliberate change in the character of the area has been initiated by the adoption of a specific plan, a change in zone or general plan designation.

Evidence: The subdivision is being initiated by a specific plan, and the subdivision will create condominiums. In any case, the density of the project, 13.2 dwelling units per acre, is consistent with the surrounding neighborhood which ranges from 5 to 20 dwelling units an acre.

4. Finding: The site is physically suitable for the proposed type and density of development.

Evidence: The site is physically suitable for the proposed type and density of development in that, at the proposed density of 13.2 dwelling units to the acre; the site contains adequate common open space amenities and parking for the project, and the site maintains adequate space for needed infrastructure.

5. Finding: The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Evidence: An Initial Study (IS) was prepared to determine the environmental effects created by the project. Based on the findings contained in the Initial Study, it was determined that Mitigation Measures related to Cultural Resources, Land Use Planning, Noise and Vibration and Tribal Cultural Resources. Based on that determination, a Mitigated Negative Declaration (MND) was prepared. A Mitigation Monitoring and Reporting Program (MMRP) has also been prepared to ensure implementation of, and compliance with, the mitigation measures for the Project.

6. Finding: The design of the subdivision or type of improvements is not likely to cause problems to the public health, safety, or welfare.

Evidence: The design of the subdivision provides for complete site improvements that provide for adequate emergency vehicle access, vehicle and pedestrian circulation, and conditions of approval are included requiring adequate lighting and security measures. Therefore, the design of the subdivision or type of improvements is not likely to cause problems to the public health, safety, or welfare.

7. Finding: The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for

access through or use of, property within the proposed subdivision. In this connection, the review authority may approve a map if it finds that alternative easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public.

Evidence: The Public Works Department has reviewed the proposed design of the subdivision and has determined there are no conflicts with existing easements. In addition, the project includes the creation of multiple easements needed for storm drain infrastructure, which have been reviewed and accepted and conditioned by the Public Works Department.

8. Finding: The design of the subdivision provides to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

Evidence: The project provides adequate space between buildings to allow for natural airflow. The subdivision provides adequate space for trees in the project which will provide some natural shading. Buildings will include eaves that provide additional shade on building walls and all roofs will be, as conditioned to be solar ready. Buildings are also required to comply with Title 24 energy requirements.

D. Per Upland Municipal Code Section 17.44.030(H), the review and decision-making authority may approve an application for a development review application only if the proposed project complies with applicable standards in the Zoning Ordinance, other City ordinances, the General Plan, and any other applicable community or specific plans, and as supported by all of the following findings:

1. Finding: The design and layout of the proposed project will not interfere with the use and enjoyment of existing and future neighboring properties and structures.

Evidence: The design and layout of the project includes the construction of private streets and street improvements, private and public open space, recreation areas and meets the requirements within the Specific Plan and is consistent with the General Plan. The project will result in a residential land use, that is more consistent with the surrounding neighborhood than the existing industrial use. The project layout directs traffic toward Arrow Highway as to not increase traffic within the established neighborhood to the south. The project includes new attractive frontage landscaping that increases use and enjoyment of existing and future neighboring properties and structures. Therefore, the proposed project will not interfere with the use and enjoyment of existing and future neighboring properties and structures.

2. Finding: The proposed architectural design makes use of appropriate materials, texture, and color, and will remain aesthetically appealing and appropriately maintained.

Evidence: The project, as conditioned, uses high quality materials and design, includes enhanced elevations in areas in public view and uses multiple colors and design styles. Conditions of approval are in place to ensure future maintenance of the project. The proposed architectural design makes use of appropriate materials, texture, and color. The project specifically identifies 3 architectural designs for the proposed 64 units that make use of varied siding, roofing, and other design elements. The project will remain aesthetically appealing and appropriately maintained because the project includes conditions of approval requiring the project be maintained, and the project will have established CC&R's that establish maintenance requirements, a Homeowners Association will be in place to maintain the common areas of the project site.

3. Finding: The proposed landscaping design, including color, location, size, texture, type, and coverage of plant materials, as well as provisions for irrigation, maintenance, and protection of landscaping elements, will complement structures and provide an attractive environment.

Evidence: The proposed preliminary landscape plan demonstrates that the design will meet the requirements of the Specific Plan. Landscaping shown on Open Space exhibits, including color, location, size, texture, type, and coverage of plant materials, as well as provisions for irrigation, maintenance, and protection of landscaping elements, will complement structures and provide an attractive environment. Conditions of Approval are included requiring the applicant submit final landscape construction drawings to ensure compliance with water use regulations, as well as design requirements of the Specific Plan.

4. Finding: The proposed design will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity of the proposed project.

Evidence: The proposed design includes adequate Emergency Vehicle Access, has been conditioned by the Upland Police Department with multiple safety requirements, and will include complete plan check reviews by the City of Upland's Building Division and San Bernardino County Fire Department thereby protecting safety and welfare. Furthermore, the implementation of the project includes multiple mitigation measure to ensure the project will not be injurious to the property or improvements in the vicinity of the proposed project.

**Section 2. DETERMINATION.** In light of the evidence presented at the hearing on this application, and based on the findings set forth above, the Planning Commission hereby finds the requirements necessary for the approval of the Project,

subject to all applicable provisions of the Upland Municipal Code, and the following conditions of approval:

10.0 General Conditions

- 10.1 All Ordinances, Policy Resolutions, and Standards of the City in effect at the time this project is approved shall be complied with as a condition of this approval.
- 10.2 The project shall comply with development standards and guidelines prescribed within the Upland Municipal Code.
- 10.3 Prior to issuance of future permits, all tract maps and development plans shall be subject to plan check with the Planning Division, Building Division, Engineering Division, Public Works Department and Fire Department.
- 10.4 No construction or grading shall commence until the applicable final grading and improvement plans have been approved.
- 10.5 No building permits shall be issued until rough grading has been certified by the Engineer of Record, and a building permit has been issued by the Building Division.
- 10.6 All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash, and debris at all times. Dead, damaged, and/or missing landscaping shall be replaced/replanted, subject to the satisfaction of the Planning Division.
- 10.7 To the maximum extent permitted by law, Applicant must defend, indemnify, and hold City, any departments, agencies, divisions, boards, and/or commissions of the City, and its elected officials, officers, contractors serving as City officials, agents, employees, and attorneys of the City ("Indemnitees") harmless from liability for damages and/or claims, actions, or proceedings for damages for personal injuries, including death, and claims for property damage, and with respect to all other actions and liabilities for damages caused or alleged to have been caused by reason of the Applicant's activities in connection with (TT-21-0002 (TT-20519) and DPR-21-0009 ("Project") on the Project site, and which may arise from the direct or indirect operations of the Applicant or those of the Applicant's contractors, agents, tenants, employees or any other persons acting on Applicant's behalf, which relate to the development and/or construction of the Project. This indemnity provision applies to all damages and claims, actions, or proceedings for damages, as described above, regardless of whether the City prepared, supplied, or approved the plans, specifications, or other documents for the Project.

In the event of any legal action challenging the validity, applicability, or interpretation of any provision of this approval, or any other supporting document relating to the Project, the City will promptly notify the Applicant of the claim, action, or proceedings and will fully cooperate in the defense of the matter. Once notified, the Applicant must indemnify, defend and hold harmless the Indemnitees, and each of them, with respect to all liability, costs and expenses incurred by, and/or awarded against, the City or any of the Indemnitees in relation to such action. Within 15 days' notice from the City of any such action, Applicant shall provide to City a cash deposit to cover legal fees, costs, and expenses incurred by City in connection with defense of any legal action in an initial amount to be reasonably determined by the City Attorney. City may draw funds from the deposit for such fees, costs, and expenses. Within 5 business days of each and every notice from City that the deposit has fallen below the initial amount, Applicant shall replenish the deposit each and every time in order for City's legal team to continue working on the matter. City shall only refund to Developer any unexpended funds from the deposit within 30 days of: (i) a final, non-appealable decision by a court of competent jurisdiction resolving the legal action; or (ii) full and complete settlement of legal action. The City shall have the right to select legal counsel of its choice that the Applicant reasonably approves. The parties hereby agree to cooperate in defending such action. The City will not voluntarily assist in any such third-party challenge(s) or take any position adverse to the Applicant in connection with such third-party challenge(s). In consideration for approval of the Project, this condition shall remain in effect if the entitlement(s) related to this Project is rescinded or revoked, whether or not at the request of the Applicant.

- 10.8 Within 15 business days of this approval the Property Owner or Project Applicant shall submit to the Development Services Department written evidence of agreement with all conditions of this approval before the approval becomes effective. (UMC 17.45.030)
- 10.9 Expansion of project beyond the scope and nature of the project, which would increase the projected scale of the project, shall not be permitted except upon application for and approval of modification to this approval.
- 10.10 Any improvement, building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained, or any use of any building or land which is conducted, operated or maintained contrary to the provisions of the Zoning Ordinance, or contrary to any detailed statement, plan, or condition of approval, approved in accordance with the provisions of the Zoning Ordinance shall be and the same is declared to be a violation of the Zoning Ordinance and is unlawful and a public nuisance.



- 10.11 The developer shall not engage in any construction activities other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety or as otherwise approved by the Development Services Director.
- 10.12 Termination of approval if either: (1) development has not been diligently commenced and actively pursued to completion thereafter within a two (2) year period from the date of approval or, (2) if the use approved hereunder is discontinued for a period of one hundred and eighty days or longer; or, (3) non-compliance with any provision of the Upland Municipal (UMC) not specifically waived in compliance with City procedures.

#### 20.0 Planning Division Conditions

- 20.1 The existing wall on the eastern project boundary shall be refinished with stucco, or masonry material in all areas on public view to the satisfaction of the Development Services Director. The applicant shall identify the material to be used on the plans submitted for plan check.
- 20.2 The plans submitted for plan check shall include a pedestrian gate for residents at the south end of the site, adjacent to the EVA.
- 20.3 The applicant shall act in good faith to eliminate existing neighboring walls at the south end of the site in order to avoid a double wall along the southern border.
- 20.4 Prior to the issuance of building permits, the applicant is required to submit a final landscape and irrigation plan for review and approval by the Planning Division. After installation of landscaping, and prior to final inspection, the applicant shall provide a letter of substantial completion from the landscape architect to the Planning Division.
- 20.5 Prior to the issuance of building permits, the applicant is required to submit a final lighting and photometric plan for review and approval by the Planning Division. The plans shall be compliant with all "Dark Sky" provisions outlined within UMC 17.14.
- 20.6 The applicant shall comply with a maintenance requirement in Upland Municipal Code Section 17.16. Structures or paved areas displaying any, but not limited to, evidence of the following shall be considered substandard and in violation of this Condition:
  - a. Broken or missing foundation.
  - b. Warping, bowing, or sagging of headers, sills, beams, eaves, doorways, doorjambs, or other similar structural members.

- c. Inadequate site drainage and/or standing water adjacent to building foundations.
  - d. Broken or inoperable sanitary and plumbing facilities and/or fixtures.
  - e. Faulty, sagging, or leaking roof or rain gutter.
  - f. Missing roof tiles or other visible roofing material(s).
  - g. Broken or missing windows.
  - h. Holes in siding.
  - i. Peeling or cracking paint.
  - j. Damaged or deteriorating structures shall be repaired immediately.
- 20.7 During construction, the applicant shall comply with the following Best Management Practices for noise management during construction.
- a. Re-route truck traffic away from residential streets, if possible. Select streets with fewest homes if no alternatives are available.
  - b. Locate equipment on the construction lot as far away from noise sensitive receivers as possible.
  - c. Combine noisy operations to occur in the same time period. The total noise will not increase significantly, and the duration of the noise impact will be less.
  - d. It is unlawful for any person to engage in or permit the erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues, and which permit may be renewed for periods of three days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he or she shall further determine that loss or inconvenience would result to any party in interest, he or she may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

- e. Use specially quieted equipment when possible, such as quieted and enclosed air compressors, residential or critical grade mufflers on all engines.
  - f. Stationary equipment will be located as far away from sensitive receptors as possible. Loud, disrupting construction activities in noise sensitive areas will be conducted during hours that are least disturbing to adjacent and nearby residents.
  - g. If noise above the stated regulation will be generated for long periods of time, construct barriers to block the line of sight to noise sensitive receivers.
- 20.8 During construction, the applicant shall comply with the following Best Management Practices for air quality management during construction. Prior to issuance of any Grading Permit, the Development Services Director and the Engineering/Land Development Division shall confirm that the Grading Plan, Building Plans, and specifications stipulate that, in compliance with SCAQMD Rule 403, excessive fugitive dust emissions shall be controlled by regular watering or other dust prevention measures, as specified in the SCAQMD's Rule and Regulations. In addition, SCAQMD Rule 402 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance offsite. Implementation of the following measures would reduce short-term fugitive dust impacts on nearby sensitive receptors:
- a. All active portions of the construction site shall be watered twice daily to prevent excessive amounts of dust;
  - b. Non-toxic soil stabilizers shall be applied to all inactive construction areas (previously graded areas inactive for 20 days or more, assuming no rain), according to manufacturers' specifications;
  - c. All excavating and grading operations shall be suspended when wind gusts (as instantaneous gust) exceed 25 miles per hour;
  - d. On-site vehicle speed shall be limited to 15 miles per hour; on-site roads shall be paved as soon as feasible, watered twice daily, or chemically stabilized;
  - e. Visible dust shall not cross the property line;
  - f. All material transported off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust prior to departing the job site;
  - g. Track-out devices shall be used at all construction site access points;

- h. All delivery truck tires shall be watered down and/or scraped down prior to departing the job site;
  - i. A construction relations officer shall be appointed to act as a community liaison concerning on-site construction activity including resolution of issues related to fugitive dust generation;
  - j. Streets shall be swept at the end of the day if visible soil material is carried onto adjacent paved public roads and use of SCAQMD Rule 1186 and 1186.1 certified street sweepers or roadway; and
  - k. Replace ground cover in disturbed areas as quickly as possible.
- 20.9 During construction activities, all off-road equipment with engines greater than 50 horsepower shall meet either the United States Environmental Protection Agency (EPA) or California Air Resources Board (ARB) Tier IV Interim off-road emission standards. The construction contractor shall maintain records documenting compliance with this requirement, including equipment lists. Off-road equipment descriptions and information may include, but are not limited to equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier IV), horsepower, and engine serial number.
- 20.10 Prior to recordation of the final map, all organizational documents for the project including Conditions, Covenants, and Restrictions (CC&R's) shall be submitted to and approved by the Development Services Director and the City Attorney. The applicant/developer is responsible for costs associated with the review of these documents. The approved CC&Rs shall be recorded concurrently with the recordation of the final map and a copy of the recorded documents shall be submitted to the Development Services Department within five (5) days after recordation. These documents shall include, but not be limited to, the following:
  - a. No lot in the development shall be sold unless an Homeowner's Association has been legally formed with the right to assess all those properties which are jointly owned or benefited to operate and maintain all other mutually available features of the development;
  - b. The City shall be included as a party to the CC&Rs for enforcement purposes of those CC&R provisions in which the City has an interest. However, the City shall not be obligated to enforce the CC&Rs;
  - c. Association bylaws must be established;

- d. Provisions for the effective establishment, operation, management, use, repair, and maintenance of all common areas and improvements by the Homeowner's Association;
- e. Membership in the Homeowner's Association shall be inseparable from ownership of individual and Lettered Landscape Lots;
- f. Architectural controls shall be provided and shall include, but not be limited to, establishing the requirement to obtain design review approval from the Owner's Association and the City of Upland to construct any additions, accessory buildings, and establishing minimum design guidelines to ensure compatible development;
- g. Provisions shall prohibit owners from modifying drainage facilities or flow patterns, without first obtaining permission from the City;
- h. Provisions for the perpetual maintenance of parkways and Bus Shelter and Improvements (i.e. trash can, benches) on Central Avenue;
- i. Provisions to implement the approved Water Quality Control Plan. Maintenance of all common area water quality measures shall be the responsibility of the Homeowner's Association;
- j. The Homeowner's Association shall be responsible for establishing and following procedures for providing access to public utilities for maintenance of their facilities within the project area;
- k. The Homeowner's Association shall be responsible for filing the most current name, address, and phone number of at least one member of the association board with the City of Upland; and
- l. The Homeowner's Association shall be responsible for establishing and enforcing procedures for the maintenance and management of parking facilities, and the storage of vehicles on-site. This shall include a requirement that all garages be used for resident parking, and not for storage that prevents 2-vehicle parking, or any other use.

### 30.0 Public Works Conditions

#### I SUBDIVISION MAPS (EASEMENTS-MONUMENTS-BONDS)

##### Map

- 30.1 The approval of this project is subject to, and contingent upon, the recordation of a Final Map. Said Final Map shall have adequate reservations of public and/or private utility easements and abandonment

of existing utility easements to the satisfaction of the Public Works Director.

- 30.2 The submittal, approval, and recordation of a subdivision map shall be in accordance with the provisions of the State Subdivision Map Act, state and federal laws, and Upland Municipal Code. The final map shall be recorded before the issuance of any permits.
- 30.3 Final Tract Map shall be submitted for City approval.

#### Monuments

- 30.4 The Owner/Developer shall comply with Assembly Bill 1414, which was enacted into law and effective January 1, 1995. This bill amended Section 8771 of the Business and Professions Code (of the Land Surveyors Act). The County Surveyor requires that the corner records be filed.
- 30.5 Monuments exist that controls the location of subdivisions or tracts, streets, or highways; or provides survey control. The monuments are located and referenced by a licensed Land Surveyor before any streets or highways are reconstructed or relocated. The corner record(s) of the references are filed with the County Surveyor.
- 30.6 Monuments are reset in the surface of the new construction and a corner record is filed with the County Surveyor before recording of a Certificate (Notice) of Completion for the project.

#### II BONDS

- 30.7 Before the recordation of the Tract Map or the issuance of a permit, a surety shall be posted in a form acceptable to the City. Also accompanying the surety, shall be an agreement executed to the satisfaction of the Public Works Director and the City Attorney, guaranteeing completion of improvements.

#### III STREET IMPROVEMENTS

- 30.8 Asphalt paving that is damaged during the construction shall be replaced to the City's satisfaction.
- 30.9 All deficient public improvements shall be upgraded to current City Standards and to the satisfaction of the Public Works Director.
- 30.10 Improvement of entry ways to project site shall include removal and replacement of damaged or deficient sidewalk, curb, and gutter at a minimum. Additional width shall be constructed with full depth asphalt as determined thru calculations by the engineer. Truncated dome shall be

placed at both ADA ramps at the entry driveway. ADA compliant ramps shall be constructed at entrance/exit of the project.

- 30.11 Developer must repair south half of Arrow Highway along project site frontage. Developer will be required grind from centerline to south curb and gutter or as directed by the Public Works Director, or designee to a depth of 1.5-inch deep and provide 1.5-inch Asphalt Concrete overlay paving. Use 3/8-inch aggregate to the pavement finish surface. Re-stripe with thermoplastic.
- 30.12 Developer must repair the cul-de-sac on 14<sup>th</sup> Avenue located on the rear side of the project. Developer will be required grind and overlay as directed by the Public Works Director, or designee to a depth of 1.5-inch deep and provide 1.5-inch-deep Asphalt Concrete overlay paving. Use 3/8-inch aggregate to the pavement finish surface. Re-stripe with thermoplastic as directed.
- 30.13 Existing driveways shall be reconstructed and/or new driveways constructed in accordance with commercial standards as indicated on Engineering Standard Drawing Number CU-P-4 Type "B." Any existing driveways not being used shall be closed and replaced with full height curb, gutter, and sidewalk.
- 30.14 In accordance with California Building Code, Title 24, and the requirements of the Americans with Disabilities Act (ADA), handicap facilities shall be constructed, and existing facilities shall be reconstructed within the project limits, as necessary, in locations specified by the Director of Public Works/City Engineer and the Director of Community Development.

#### IV UTILITY (WATER – SEWER – ENVIRONMENTAL)

##### Utility General

- 30.15 All units shall be served by utilities, allowing each unit to function separately and independent from one another.
- 30.16 All utility companies (for non-City owned utilities) shall be contacted to establish appropriate easements to provide services to each parcel.
- ~~30.17 The Owner/Developer is responsible for research of private utility lines (Gas, Edison, Telephone, Cable, Irrigation, etc.) to ensure there are no conflicts with the site.~~

30.17

- ~~30.18 Proposed on-site sewer, waterlines, and drainage facilities that are private shall be maintained by the homeowner's association, which shall be established in the HOA's Covenant, Conditions & Restrictions (CC&R).~~

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~~30.18 Proposed on-site sewer and water lines shall be private and to be maintained by the owner; Drainage facilities shall be maintained by the owner/property owner's association which shall be established in the HOA's Covenant, Conditions & Restrictions (CC&R).~~

30.19 Composite Utility Plans shall be submitted before the issuance of a Grading Permit. Any easements will be dedicated to the appropriate Utility Company as required to accommodate the location of that facility.

30.20 All existing on-site utility lines that conflict with this project shall be relocated or removed to the satisfaction of the Public Works Director.

#### Undergrounding

30.21 All structures within this parcel shall be served by underground utilities. All utility plans (Edison, Telephone, and Cable TV, among others) shall be submitted to the Public Works Department for review and approval prior to the issuance of any permits for utility work within public right-of-way or public easements.

30.22 The existing overhead utilities (to include all communications cables and SCE distribution lines) on the project site frontage shall be undergrounded in accordance with Upland Municipal Code Title 12. If the Public Works Director approves, the developer may opt to pay "in lieu fee" for undergrounding.

30.23 The requirements for undergrounding overhead utility lines shall be implemented prior to occupancy, unless delayed due to the failure to perform by the utility company in obtaining approvals from the City and/or State for relocation work.

#### Environmental

30.24 This project will disturb at least one acre of total land area and therefore is subject to the General Construction Permit for Storm Water Discharges. The Owner/Developer is required to file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) for construction activities. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and be available at the job site at all times. A copy of the Waste Discharger's Identification Number (WDID) from the SWRCB shall be provided to the City before the issuance of grading or building permits.

30.25 All projects that are required to prepare a SWPPP must file a letter with the SWRCB stating that the construction activity is complete. A copy of this letter must be on file with the City of Upland before occupancy is granted.



- 30.26 This project is required to submit a Site-Specific Water Quality Management Plan (WQMP) (reference the County of San Bernardino "Guidelines for New Development and Redevelopment") for review and approval by the City of Upland, Public Works Department, and Environmental Division. The WQMP shall include a description and map of the project along with an outline of structural and non-structural Best Management Practices (BMPs), which apply to the project pursuant to the "New Development and Redevelopment Guidelines." The subject WQMP shall be approved prior to the issuance of grading permit.
- 30.27 Prior to issuance of any permit, the developer shall have completed the Site-Specific Water Quality Management Plan (WQMP) and the executed WQMP Maintenance Agreement with the City.
- 30.28 A Sewer Flow Study is required to verify the infrastructure needs for sewer collection and connection to existing City infrastructure. The proposed sewer system shall not cause any negative impact to the existing sewer system.

#### Sewer

- 30.29 Extend any sanitary sewer and water line facilities as necessary to serve the entire development, including the payment of any sewer and water connection fees as determined by the Public Works Director.
- 30.30 The Owner/Developer shall provide the necessary Sewer Service Backflow Prevention Device as required by Engineering Directive ED-Z-1.
- 30.31 The portion of sewer from 14<sup>th</sup> Avenue, serving the Cherokee property, will remain public.
- 30.32 Proposed on-site sewer mains located within the City easement shall be relocated to the satisfaction of the Public Works Director within a public easement.
- 30.33 City staff will inspect all newly installed sewer mains with the TV camera before acceptance of the line for public improvements.

#### Water

- 30.34 A separate water meter shall be provided for domestic and landscaping purposes.
- 30.35 All new and upgraded developments shall meet the requirements of Chapter 13.08 "Municipal Water System," Article VII, of the Upland Municipal Code. This Code pertains to water system connection fees, water additive fees, and the transfer of water stock to the City of Upland.

~~30.36 Appropriate water utility easements for water facility locations shall be shown on water plans. Public water lines shall maintain a minimum seven-foot setback from the face of curb or gutter flowline. Other utilities shall not encroach into the water utility easement, excepting as may be authorized by the Public Works Director subject to special construction methods. As-built plans of all underground utilities, including water facilities, shall be submitted prior to final approval of the development. The portion of water from 14th Avenue, serving the Cherokee property, will remain public.~~

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~~30.36 Appropriate water utility easements for water facility locations shall be shown on water plans. Underground utilities shall maintain a minimum seven-foot setback from the face of curb or gutter flowline and shall not encroach into the water utility easement, excepting as may be authorized by the Public Works Director subject to special construction methods. As-built plans of all underground utilities, including water facilities, shall be submitted prior to final approval of the development.~~

30.37 The provision of fire protection water systems shall be installed in accordance with County Fire and Public Works Department Standards.

30.38 On-site protection hydrant(s) and water systems shall be installed in accordance with County Fire and Public Works Department Standards.

30.39 All water facilities shall be installed outside any driveways and drive approaches and shall be in accordance with the Public Works Department Standards.

30.40 All landscape meter(s) and approved Backflow Device(s) shall be installed and inspected, in accordance with the Public Works Department Standards.

#### V GRADING - STORM DRAIN - EROSION CONTROL

30.41 A hydrology/hydraulics analysis is required to the satisfaction of the Public Works Director. Any offsite drainage, which may impact this development, or additional drainage created by this development, shall be addressed in accordance with the mitigation measures required in the hydrology report before issuance of any permits.

30.42 All drainage shall be directed on-site at the points so indicated upon the approved Tentative Map (any deviation will require resubmittal to the Technical Review Committee for approval).

30.43 Temporary drainage controls may be required during construction phases as directed by the Public Works Director.

30.44 All catch basins and Storm Drain Inlet Facilities shall be stenciled with the appropriate "No Dumping" message.

- 30.45 A notarized off-site grading letter(s) from the adjacent property owner(s) shall be required before issuance of grading permits. Said requirement shall be noted on the grading plans.
- 30.46 Grading plan shall be prepared and shall conform to the requirements of California Building Code (CBC), latest edition. Said grading plan shall propose all recommendations contained in the project's geotechnical report. Such grading plans shall be in compliance to the geotechnical report prepared for the site and shall also incorporate on the plans, the recommendations and BMPs proposed under the approved Site Specific WQMP.
- 30.47 An erosion control plan shall be required as directed by the Public Works Director.
- 30.48 No permanent building construction shall commence until the final grading and improvement plans have been approved, rough grading certified and a building permit issued by the Building Division.
- 30.49 Owner/Developer shall submit design and calculations and obtain permit and inspection for all development perimeter and retaining walls from the Building Division. Construction of any masonry/retaining wall shown on the plans or reference thereto shall require separate permit from Building Division.
- 30.50 Dust Control operations shall be performed by the Contractor at the time, location and in the amount required and as often as necessary to prevent the excavation or fill work, demolition operation, or other activities from producing dust in amounts harmful to people or causing a nuisance to persons living nearby or occupying buildings in the vicinity of the work. The Contractor is responsible for compliance with Fugitive Dust Regulations issued by the Air Quality Management District (AQMD).
- 30.51 Control of dust shall be by sprinkling of water, use of approved dust preventatives, modifications of operations or any other means acceptable to the Engineer, City of Upland, the Regional Water Quality Control Board (RWQCB), the AQMD, and any Health or Environmental Control Agency having jurisdiction over the facility. The Engineer shall have the authority to suspend all construction operations if, in their opinion, the Contractor fails to adequately provide for dust control.
- 30.52 In compliance to water conservation mandate of the State of California, before or at submission of grading plans, Owner/Developer shall submit/develop Water Conservation Plan. Among others, said plan encourages the use of reclaimed water and use of any/all water conservation measures during construction.

#### VI LANDSCAPING

- 30.53 Any landscaping proposed within a City utility easement is subject to approval by the Public Works Director and Community Development Director.
- 30.54 All landscaping works proposed for this development shall comply with the latest State Landscaping Code.
- 30.55 All landscape and irrigation systems, located in the public parkways, shall be connected to a water supply system that is metered to the property owner.
- 30.56 All developments require a tree-planting scheme in the right-of-way.
- a) If planting in a parkway, center the tree between the curb and sidewalk.
  - b) If planting in an area without sidewalk, plant the trees four feet to six feet from the existing or planned curb or street
  - c) Plant trees a minimum of five feet from other utilities, a minimum of ten feet from driveways, water meters, water lines, sewer lines, traffic and directional signs, and fire hydrants, a minimum of fifteen feet from streetlights, and a minimum of thirty feet from street corners.
- 30.57 The Owner/developer shall provide for maintenance of all landscape areas located on the project including public parkways.

#### VII STUDIES – REPORTS – CC&Rs

- 30.58 Conditions, Covenants, and Restrictions (CC&Rs) shall be recorded requiring the provision of the following special features, private street, common open space, sewer and water facilities, and amenities, refuse service, etc. and maintenance thereof in perpetuity, in conjunction with the approval of this project.
- a) Concurrent with the recordation of the Tract Map.
- 30.59 A Geotechnical Report (no older than one year) shall be submitted for review before the issuance of a grading permit. Reports older than one year are not accepted.

#### VIII GENERAL ENGINEERING

- 30.60 Owner/Developer is required to arrange for a PRE-CONSTRUCTION MEETING with the Public Works Department before the issuance of any permits for work within public right-of-way or public easements.

- 30.61 Public improvement plans and grading plans shall be submitted for plan check to the Public Works Department as a complete package. A complete package includes street; sewer, water, grading, drainage, and any appropriate reports and back up documents. Incomplete submittals shall be rejected.
- 30.62 All plans (including Landscape Plans) depicting any work to be plan checked by Public Works shall be prepared on 24"x36" on City Standard title block. This includes storm drain, grading, erosion control.
- 30.63 As-built plans (including street, sewer, water, and storm drain and grading plans) shall be submitted prior to occupancy release. Electronic drawing files on compact disc (CD's) shall be submitted to the City for file in the format acceptable by the City prior to occupancy release.
- 30.64 All Ordinances, Policy Resolutions, and Standards of the City in effect at the time this project is approved shall be complied with as a condition of this approval.
- 30.65 No certificate of Occupancy, or any other final clearance needed prior to occupancy, shall be given until all other conditions are met.

#### IX MISCELLANEOUS CONDITIONS

- 30.66 Owner shall provide refuge service in accordance with State, County and Burrtec standards. Provide proof of coordination with Burrtec prior to recordation.

#### 40.0 Police Department

- 40.1 The Developer, builder, contractors, sub-contractors, and any other persons associated with this project shall adhere to the Upland Municipal Code (UMC) dealing with unnecessary noises under section 9.40.100. Furthermore, prior to the beginning of construction, a sign shall be posted at the entrance of the property educating everyone entering as to the authorized construction times and failure to comply with such requirements will result in an immediate citation for violating the aforementioned UMC section.
- 40.2 Prior to the issuance of building permits, the project must be enclosed with a 6-FT. high chain link fencing to prevent access to construction areas by the public and to minimize theft of building materials and equipment. All fencing and gates shall meet the approval of the Fire Department and Police Department.
- 40.3 Units with front and rear drive access shall affix or paint address numbering/lettering in a conspicuous location, free from plant

obstruction, and readily visible to emergency services personnel on both front and rear accesses.

- 40.4 Prior to occupancy all private streets, parking areas, parking lots, and driveways shall be dedicated for off-road traffic, fire lane, soliciting, handicap, and loitering enforcement. The applicant must submit a written request to the City Clerk asking that a resolution from the City Council allow Police Enforcement of the above violations on the property. Once the resolution has been obtained, a sign shall be erected/posted at all access points stating the above listed locations and violations have been dedicated for enforcement by the Upland Police Department.
- 40.5 Prior to occupancy, the Police Department will conduct an on-site inspection of the property, checking proper lighting has been installed throughout the property, proper locks on exterior doors and doors leading to the interior are in place and functioning properly. In addition, the Police Department will check that proper addressing/lettering has been installed.
- 40.6 If security gates are desired at any access points to the project, the Police Department and Fire Department will be provided access by the Knox Submaster System. If gates are not electronically operated, a "KNOX" padlock may be substituted for electrically operated override systems.
- 40.7 All fencing and gates shall meet the approval of the Fire Department and the Police Department.
- 40.8 The applicant shall submit for review by the Police Department the design and specifications for all proposed lighting fixtures proposed for the buildings, drive aisles, parkways, parking areas, pathways, and surrounding areas within the development. The fixtures shall be reviewed for quality, aesthetics, illumination values, sustainability values such as LED and shall be decoratively and architecturally consistent with the building design. The number, location, height, style and design shall be reviewed and approved by the Police Department prior to issuance of building permits.
- 40.9 Prior to the issuance of building permits, the applicant shall submit a Photometric Study providing a minimum of two-foot candle all around the structure and surveillance cameras all around the perimeter, common areas, and throughout the parking area, with the ability or resolution to make license plates discernable.

- 40.10 All exterior doors shall be equipped with a lighting device capable of providing a minimum of two foot-candle of light at ground level.
- 40.11 All exterior lighting lower than 12 feet from the ground level shall be enclosed in vandal-resistant covers.
- 40.12 Lighting shall be required in all area of public access.
- 40.13 All exterior lighting shall be oriented inward onto the project so as not to interfere with adjacent residential areas or vehicular traffic on adjacent public streets.
- 40.14 Public parking areas and access thereto shall be provided with a maintained minimum of 2-foot candle power of light on the parking surface, from dusk to dawn, or as modified by the Chief of Police, based on documented proof that meeting the 2 foot candle power standard is impractical. Lighting shall be provided through the use of photocells; use of low pressure sodium fixtures and bulbs is prohibited.
- 40.15 At a minimum, internally illuminated address signs/numbers are required for each building, to the satisfaction of the Deputy Fire Marshal and the Chief of Police.
- 40.16 Signs prohibiting loitering shall be installed to the satisfaction of the Chief of Police. They shall be mounted between six and ten feet above ground. The following must be printed on the sign in letters at least two inches tall: "PC647(h), UMC10.72.010." and "NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES." The signs shall be posted on the front, rear, and sides of the building, and shall be clearly visible to patrons of the licensee.
- 40.17 Signs shall comply with all City of Upland sign requirements (UMC 17.15 et seq.). No more than 50% of the total window area and clear doors shall bear advertising or signs of any sort. Window signs shall be placed and maintained in a manner so that there is a clear and unobstructed view of the interior of the premises from the public sidewalk or entrance to the premises (this applies to all windows of this location).
- 40.18 A digital video surveillance system is required at the premise. It is recommended to have a surveillance video/visual media that shall be maintained for a minimum of sixty (60) days and upon request, shall be accessible to law enforcement personnel for viewing, copying and collection purposes during regular business hours. The system shall be able to make license plates

discernable. The video system shall cover all ingress and egress of the project site.

- 40.19 Provide UPD with contact information of person responsible for maintaining video equipment/system and who has access to retrieve and copy surveillance video. The surveillance video/visual media shall be remotely accessible to the Upland Police Department.
- 40.20 Landscaping is to be maintained so as not to allow areas of concealment, to the satisfaction of the Chief of Police. All landscaping must adhere to the 2' 6' rule (all ground cover landscaping must be maintained no higher than 2' from ground level and all lower tree canopy must be maintained no lower than 6' in height from the ground level).
- 40.21 Graffiti abatement by the business owner/licensee shall be immediate and ongoing on the licensed premises, but in no event shall graffiti be allowed unabated on the premises for more than 48 hours. Abatement shall take the form of removal or shall be covered/painted over with a color reasonably matching the color of the existing building, structure, or other surface being abated. Additionally, the business owner/licensee shall notify the City within 24 hours of any graffiti elsewhere on the property not under the business owner/licensee's control so that it may be abated by the property owner.
- 40.22 Any vehicles not parked legally may be cited and/or towed if it is in violation of the California Vehicle Code and/or Upland Municipal Code.

#### 50.0 Building and Safety

- 50.1 The applicant shall submit a soils report prior to the issuance of building permits.
- 50.2 Plans submitted after December 31, 2022 shall be in compliance shall be in compliance with the 2022 California Building Codes.

#### 60.0 San Bernardino County Fire Protection District (SBCo FD)

- 60.1 Additional Requirements. In addition to the Fire requirements stated herein, other onsite and offsite improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete
- 60.2 improvement plans and profiles have been submitted to this office.



- 60.3 Fire Fee. The required fire fees shall be paid to the San Bernardino County Fire Department/Community Safety Division.
- 60.4 Fire Flow Test. Your submittal did not include a flow test report to establish whether the public water supply is capable of meeting your project fire flow demand. You will be required to produce a current flow test report from your water purveyor demonstrating that the fire flow demand is satisfied. This requirement shall be completed prior to combination inspection by Building and Safety.
- 60.5 Fire Lanes. The applicant shall submit a fire lane plan to the Fire Department for review and approval. Fire lane curbs shall be painted red. The "No Parking, Fire Lane" signs shall be installed on public/private roads in accordance with the approved plan.
- 60.6 Fire Sprinkler NFPA 13D. An automatic life safety fire sprinkler system complying with NFPA Pamphlet #13D and the Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor or be the approved homeowner/installer. The fire sprinkler contractor/installer shall submit plans with hydraulic calculations and manufacture's specification sheets to the Fire Department for approval. The required fees shall be paid at the time of plan submittal. Minimum water supply shall be in accordance with current fire department standards. The applicant or contractor shall contact their local water purveyor to obtain specifications on installing a residential fire sprinkler system within the jurisdiction of the water purveyor. The applicant shall attach a letter from the water purveyor indicating the types of systems allowed in that jurisdiction.
- 60.7 Key Box. An approved Fire Department key box is required. In commercial, industrial and multi-family complexes, all swing gates shall have an approved fire department Knox Lock.
- 60.8 Override Switch. Where an automatic electric security gate is used, an approved Fire Department override switch (Knox ®) is required.
- 60.9 Residential Addressing. The street address shall be installed on the building with numbers that are a minimum of four (4) inches in height and with a one half (½) inch stroke. The address shall be visible from the street. During the hours of darkness, the numbers shall be internally and electrically illuminated with a low voltage power source. Numbers shall contrast with their background and be legible from the street. Where the building is fifty (50) feet or more from the roadway, additional contrasting four (4) inch numbers shall be displayed at the property access entrances.
- 60.10 Water System Residential. A water system approved by the Fire Department is required. The system shall be operational prior to any

combustibles being stored on the site. Detached single family residential developments may increase the spacing

- 60.11 between hydrants to be no more than six hundred (600) feet and no more than three hundred (300) feet (as measured along vehicular travel-ways) from the driveway on the address side of the proposed single-family structure.

#### 70.0 Trash Services

- 70.1 Trash Service shall be conducted in compliance with the trash service plan approved by the City of Upland's trash service provider.

#### 80.0 Mitigation Measures

- 80.1 All Mitigation Measures Listed below are also added as conditions if approval to the Project.

- 80.2 CUL-1: Retain a Qualified Archaeologist.

Prior to the acquisition of a demolition permit, the Project Applicant shall retain the services of a qualified archaeologist meeting the Secretary of Interior Professional Qualifications Standards to oversee the archaeological monitoring program and develop a Cultural Resource Management Plan (CRMP) in partnership with the Consulting Tribes. The CRMP shall document the monitoring and reporting procedures for archaeological and Native American monitoring, and develop a single set of monitoring procedures that is consistent with the minimum requirements outlined in the MMRP (Cultural and Tribal Cultural Resources) and Project's Conditions of Approval. Discrepancies between cultural and tribal cultural mitigation measures shall be addressed in the CRMP while adhering to the legal requirements of each measure, as documented in the MMRP. The Qualified Archaeologist shall provide each Consulting Tribe an opportunity to review and comment on the CRMP prior to submitting to the City. The CRMP must be approved by the City prior to issuance of the demolition permit.

An archaeological monitor shall be present on-site during the construction phases that involve ground-disturbing activities, which may include, but are not limited to, pavement removal, potholing or augering, grubbing, tree removals, boring, grading, excavation, drilling, and trenching, within the Project area. The on-site monitoring shall end when the Project site grading and excavation activities are completed, or when the Qualified Archaeologist determines that the Project site has a low potential for impacting archaeological resources.

- 80.3 CUL-2: Unanticipated Discovery of Archaeological Resources.

Upon discovery of any archaeological resources, cease construction activities in the immediate vicinity of the find until the find can be assessed. All archaeological resources unearthed by project construction

activities shall be evaluated by the qualified archaeologist. Work may continue on other parts of the project while evaluation and, if necessary, treatment or mitigation takes place (CEQA Guidelines Section 15064.5 [f]). If a resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource", time allotment and funding sufficient to allow for implementation of avoidance measures, or appropriate mitigation, must be available. The treatment plan established for the resources shall be in accordance with CEQA Guidelines Section 15064.5(f) for historical resources and Public Resources Code Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource, along with subsequent laboratory processing and analysis. Any historic archaeological material that is not Native American in origin shall be paid to be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be offered to a local school or historical society in the area for educational purposes.

80.4 CUL-3: Monitoring and Treatment Plan.

If significant archeological resources, as defined by CEQA (as amended, 2019), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, in coordination with the Consulting Tribes per mitigation measures TCR-1, TCR-2, and TCR-3, and all subsequent finds shall be subject to this Plan.

80.5 CUL-4: Archaeological/Cultural Reports.

Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the project Applicant and City for dissemination to the Consulting Tribes. The City and/or project Applicant shall, in good faith, consult with the Consulting Tribes throughout the life of the Project.

80.6 CUL-5: Unanticipated Discovery of Human Remains and Associated Funerary Objects.

A. Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute.

B. If Native American human remains and/or grave goods discovered or recognized on the project site, then all construction activities shall immediately cease. Health and Safety Code Section 7050.5 dictates

that any discoveries of human skeletal material shall be immediately reported to the County Coroner and all ground-disturbing activities shall immediately halt and shall remain halted until the coroner has determined the nature of the remains. If the coroner recognizes the human remains to be those of a Native American or has reason to believe they are Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission, and Public Resources Code Section 5097.98 shall be followed.

- C. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2).
- D. Construction activities may resume in other parts of the project site at a minimum of 200 feet away from discovered human remains and/or burial goods if the consulting tribe(s) determine that resuming construction activities at that distance is acceptable, and provides the project manager express consent of that determination (along with any other mitigation measures the consulting tribe(s) and/or archaeologist deems necessary). (CEQA Guidelines Section 15064.5(f).)
- E. Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods. Any historic archaeological material that is not Native American in origin (non-TCR) shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, it shall be offered to a local school or historical society in the area for educational purposes.
- F. Any discovery of human remains/burial goods shall be kept confidential to prevent further disturbance.

80.7 CUL-6: Resource Assessment & Continuation of Work Protocol.

Upon discovery, the tribal and/or archaeological monitor(s)/consultant(s) will immediately divert work at minimum of 200 feet and place an exclusion zone around the burial. The monitor(s)/consultant(s) will then notify the consulting Tribe(s), the qualified lead archaeologist, and the construction manager, who shall contact the County Coroner, pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project. Work will continue to be diverted while the Coroner determines whether the remains are Native American. The discovery is to be kept confidential and secure to prevent any further disturbance. If the finds are determined to be Native American, the coroner will notify the NAHC as mandated by state law, who will then appoint a Most Likely Descendent(s) (MLD). The treatment of human remains, ceremonial, and burial items will comply with the MLD's burial treatment policy. If multiple MLDs are identified by the

NAHC, treatment will be approved by all MLDs prior to executing treatment.

80.8 LU-1: Noise-attenuating Building Materials.

For the project's habitable areas (both living rooms and bedrooms) within 50 feet of East Arrow Highway and the Cherokee Wood Products site, the following measures shall be incorporated in the design of the project to reduce interior noise levels to 45 CNEL or less:

- Minimum exterior wall requirement of STC 46 with a construction of standard 3/8-inch exterior one coat stucco over 1.0-inch rigid R-4 insulation over 1/2-inch shearwall on 2x6 studs with 5/8 inch Type "X" Drywall or similar materials achieving the STC 46. The Development Services Director or designee shall verify similar materials are adequate to meet the requirements of STC 46.
- Minimum window requirement of STC 28 with a vinyl frame window construction of dual glazing window thickness 1/8-inch and 1/2-inch air gap.
- Appropriate means of air circulation and provision of fresh air intake shall be incorporated in the project to allow windows to remain closed for extended intervals of time so that acceptable levels of noise can be maintained on the interior.

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Buildings shall provide mechanical ventilation in accordance with the 2019 California Mechanical Code.

80.9 NOI-1: Construction Noise Management Plan.

Noise levels from project-related construction activities shall not exceed 65 dBA, defined as 10 dBA above the daytime baseline ambient noise levels defined in the City Municipal Code (55 dBA for residential uses), as measured at the neighboring land use. A Construction Management Plan that describes the measures included on the construction plans to ensure compliance with the noise limit shall be prepared by the project applicant and submitted to the City of Upland for approval prior to issuance of the grading permit. The following measures may be included to reduce construction noise:

- Construction equipment to be properly outfitted and maintained with manufacturer-recommended noise-reduction devices.
- Diesel equipment to be operated with closed engine doors and equipped with factory-recommended mufflers.
- Mobile or fixed "package" equipment (e.g., arc-welders and air compressors) to be equipped with shrouds and noise control features that are readily available for that type of equipment.

- Electrically powered equipment to be used instead of pneumatic or internal-combustion powered equipment, where feasible.
- Unnecessary idling of internal combustion engines (e.g., in excess of 5 minutes) to be prohibited.
- Material stockpiles and mobile equipment staging, parking, and maintenance areas to be located as far as practicable from noise sensitive receptors.
- The use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only.
- No project-related public address or music system shall be audible at any adjacent sensitive receptor.
- Temporary sound barriers or sound blankets may be installed between construction operations and adjacent noise-sensitive receptors. Due to equipment exhaust pipes being approximately 7 to 8 feet above ground, a sound wall at least 10 feet in height above grade as measured at the neighboring parcels, would be located along the southern property line between the project and neighboring residences to mitigate noise levels to within acceptable levels. If barriers are to be used, the sound barrier should be constructed of a material with a minimum weight of two pounds per square foot with no gaps or perforations and remain in place until the conclusion of demolition, grading, and construction activities.
- The project applicant shall notify residences within 100 feet of the project's property line in writing within one week of any construction activity such as demolition, concrete sawing, asphalt removal, and/or heavy grading operations. The notification shall describe the activities anticipated, provide dates and hours, and provide contact information with a description of a complaint and response procedure.
- The on-site construction supervisor shall have the responsibility and authority to receive and resolve noise complaints. A clear appeal process for the affected resident shall be established prior to construction commencement to allow for resolution of noise problems that cannot be immediately solved by the site supervisor.

80.10 MM TCR-1, Gabrieleno Band of Mission Indians - Kizh Nation

- A. Retain a Native American Monitor Prior to Commencement of Ground-Disturbing Activities
  - I. The project applicant/lead agency shall retain a Native American Monitor from or approved by the Gabrieleno Band of Mission

Indians – Kizh Nation. The monitor shall be retained prior to the commencement of any "ground-disturbing activity" for the subject project at all project locations (i.e., both on-site and any off-site locations that are included in the project description/definition and/or required in connection with the project, such as public improvement work). "Ground-disturbing activity" shall include, but is not limited to, demolition, pavement removal, potholing, auguring, grubbing, tree removal, boring, grading, excavation, drilling, and trenching.

- II. A copy of the executed monitoring agreement shall be submitted to the lead agency prior to the earlier of the commencement of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity.
- III. The monitor will complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground-disturbing activities, soil types, cultural-related materials, and any other facts, conditions, materials, or discoveries of significance to the Tribe. Monitor logs will identify and describe any discovered Tribal Cultural Resources, including but not limited to, Native American cultural and historical artifacts, remains, places of significance, etc., (collectively, tribal cultural resources, or "TCR"), as well as any discovered Native American (ancestral) human remains and burial goods. Copies of monitor logs will be provided to the project applicant/lead agency upon written request to the Tribe.
- IV. On-site tribal monitoring shall conclude upon the latter of the following (1) written confirmation to the Kizh from a designated point of contact for the project applicant/lead agency that all ground-disturbing activities and phases that may involve ground-disturbing activities on the project site or in connection with the project are complete; or (2) a determination and written notification by the Kizh to the project applicant/lead agency that no future, planned construction activity and/or development/construction phase at the project site possesses the potential to impact Kizh TCRs.
- V. Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by the Kizh monitor and/or Kizh archaeologist. The Kizh will recover and retain all discovered TCRs in the form and/or manner the Tribe deems appropriate, in the Tribe's sole discretion, and for any purpose the Tribe deems appropriate, including for educational, cultural and/or historic purposes.

**B. Unanticipated Discovery of Human Remains and Associated Funerary Objects**

- I. Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute.
- II. If Native American human remains and/or grave goods discovered or recognized on the project site, then all construction activities shall immediately cease. Health and Safety Code Section 7050.5 dictates that any discoveries of human skeletal material shall be immediately reported to the County Coroner and all ground-disturbing activities shall immediately halt and shall remain halted until the coroner has determined the nature of the remains. If the coroner recognizes the human remains to be those of a Native American or has reason to believe they are Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission, and Public Resources Code Section 5097.98 shall be followed.
- III. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2).
- IV. Construction activities may resume in other parts of the project site at a minimum of 200 feet away from discovered human remains and/or burial goods, if the Kizh determines in its sole discretion that resuming construction activities at that distance is acceptable and provides the project manager express consent of that determination (along with any other mitigation measures the Kizh monitor and/or archaeologist deems necessary). (CEQA Guidelines Section 15064.5(f)).
- V. Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods. Any historic archaeological material that is not Native American in origin (non-TCR) shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, it shall be offered to a local school or historical society in the area for educational purposes.
- VI. Any discovery of human remains/burial goods shall be kept confidential to prevent further disturbance.

**C. Procedures for Burials and Funerary Remains**



- I. As the Most Likely Descendant ("MLD"), the Koo-nas-gna Burial Policy shall be implemented. To the Tribe, the term "human remains" encompasses more than human bones. In ancient as well as historic times, Tribal Traditions included, but were not limited to, the preparation of the soil for burial, the burial of funerary objects with the deceased, and the ceremonial burning of human remains.
- II. If the discovery of human remains includes four or more burials, the discovery location shall be treated as a cemetery and a separate treatment plan shall be created.
- III. The prepared soil and cremation soils are to be treated in the same manner as bone fragments that remain intact. Associated funerary objects are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later; other items made exclusively for burial purposes or to contain human remains can also be considered as associated funerary objects. Cremations will either be removed in bulk or by means as necessary to ensure complete recovery of all sacred materials.
- IV. In the case where discovered human remains cannot be fully documented and recovered on the same day, the remains will be covered with muslin cloth and a steel plate that can be moved by heavy equipment placed over the excavation opening to protect the remains. If this type of steel plate is not available, a 24-hour guard should be posted outside of working hours. The Tribe will make every effort to recommend diverting the project and keeping the remains in situ and protected. If the project cannot be diverted, it may be determined that burials will be removed.
- V. In the event preservation in place is not possible despite good faith efforts by the project applicant/developer and/or landowner, before ground-disturbing activities may resume on the project site, the landowner shall arrange a designated site location within the footprint of the project for the respectful reburial of the human remains and/or ceremonial objects.
- VI. Each occurrence of human remains and associated funerary objects will be stored using opaque cloth bags. All human remains, funerary objects, sacred objects and objects of cultural patrimony will be removed to a secure container on site if possible. These items should be retained and reburied within six months of recovery. The site of reburial/repatriation shall be on the project site but at a location agreed upon between the Tribe and the landowner at a site to be protected in perpetuity. There shall be no publicity regarding any cultural materials recovered.

VII. The Tribe will work closely with the project's qualified archaeologist to ensure that the excavation is treated carefully, ethically and respectfully. If data recovery is approved by the Tribe, documentation shall be prepared and shall include (at a minimum) detailed descriptive notes and sketches. All data recovery data recovery-related forms of documentation shall be approved in advance by the Tribe. If any data recovery is performed, once complete, a final report shall be submitted to the Tribe and the NAHC. The Tribe does NOT authorize any scientific study or the utilization of any invasive and/or destructive diagnostics on human remains.

80.11 TCR-2, San Gabriel Band of Mission Indians

A. Retain a Native American Monitor Prior to Commencement of Ground-Disturbing Activities

- I. The project applicant/lead agency shall retain a Native American Monitor from or approved by the San Gabriel Band of Mission Indians. The monitor shall be retained prior to the commencement of any ground-disturbing activity for the subject project at all project locations.
- II. A copy of the executed monitoring agreement shall be submitted to the lead agency prior to the earlier of the commencement of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity.
- III. On-site tribal monitoring shall continue until the San Gabriel Band of Mission Indians, in concurrence with project archaeologist, agrees that monitoring activities may be reduced or concluded.
- IV. Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by the San Gabriel Band of Mission Indians monitor.
- V. Upon discovery of any TCRs, prehistoric resources, or historic-era resources considered significant by the San Gabriel Band of Mission Indians, the project must produce a treatment plan to be reviewed and agreed upon by the San Gabriel Band of Mission Indians prior to executing testing or treatment efforts.

80.12 TCR-3, Yuhaaviatam of San Manuel Nation

A. Cultural Resources

- I. In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered

area may continue during this assessment period. Additionally, the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed within MM TCR-4-B, regarding any pre-contact and/or historic-era finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.

- II. If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to YSMN for review and comment, as detailed within MM TCR-3-B-I. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.
- III. If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

**B. YSMN Tribal Cultural Resources**

- I. The Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed in MM TCR-3-A-II, of any pre-contact and/or historic-era cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site.
- II. Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.

Note: YSMN realizes that there may be additional tribes claiming cultural affiliation to the area; however, YSMN can only speak for itself. The Nation has no objection if the agency, developer, and/or archaeologist wishes to consult with other tribes in addition to YSMN and if the Lead Agency wishes to revise the conditions to recognize additional tribes.

Section 4. **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).** Pursuant to the California Environmental Quality Act (CEQA) Guidelines and the City's local Guidelines, an Initial Study and Mitigated Negative Declaration (IS/MND) was prepared pursuant to Sections 15063(c) and 15070 of the California Environmental Quality Act Guidelines and the City of Upland CEQA Guidelines to address the potential environmental effects of the proposed project. Initial Study (IS) was prepared to determine the environmental effects created by the project. Based on the findings contained in the Initial Study, it was determined that Mitigation Measures related to Cultural Resources, Land Use Planning, Noise and Vibration and Tribal Cultural Resources. Based on that determination, a Mitigated Negative Declaration (MND) was prepared. A Mitigation Monitoring and Reporting Program (MMRP) has also been prepared to ensure implementation of, and compliance with, the mitigation measures for the Project.

Section 5. **SEVERABILITY.** If any section, subsection, subdivision, sentence, or clause or phrase in this Resolution or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof. The Planning Commission hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective.

Section 7. **CERTIFICATION.** The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this Resolution, and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Section 8. **EFFECTIVE DATE.** This Resolution shall become effective ten (10) days after its passage and adoption unless appealed prior to that time.

**PASSED, APPROVED and ADOPTED** this 24<sup>th</sup> day of August, 2022.

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Robin Aspinall, CHAIR

ATTEST:

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Robert D. Dalquest, SECRETARY

I HEREBY CERTIFY that the foregoing Resolution was duly and regularly passed and adopted by the Planning Commission of the City of Upland at a regular adjourned meeting thereof held on the 24<sup>th</sup> day of August, 2022, by the following vote:

AYES:

NAYS:

ABSENT:


ABSTAIN:

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Robert D. Dalquest, SECRETARY

consistency analysis between the Specific Plan and the City of Upland General Plan is provided in Chapter 1 of this Specific Plan.

## 2. Municipal Code/Zoning

All development and proposed uses in the Specific Plan shall comply with the requirements and standards set forth in this document. In some cases, this Specific Plan provides direct references to the City of Upland's Municipal Code, and where this Specific Plan is silent, applicable provisions of the Municipal Code  **shall apply.**

Prior to adoption of this Specific Plan, the City of Upland Municipal Code zoning regulations designated the site as Light Industrial – Business Park (reference **Figure 4-2, Existing Zoning Classification**). This zone is intended to allow industrial uses with little potential for noise, odor, vibration, or similar impacts on surrounding use areas. To achieve conformity, a Zone Change (ZC) is required to recognize the Specific Plan. As a part of the adoption of this document, the zoning has been changed to Specific Plan (reference **Figure 4-3, Proposed General Plan and Zoning**).

## 3. Discretionary Approvals

The project applicant seeks to amend the City of Upland General Plan Land Use Map and Upland Zoning Map to allow for the proposed residential use. This document was prepared under the authority of the City of Upland and will be used in connection with the following decisions:

- Approval of the General Plan Amendment to change the land use designation of Specific Plan property from Light Industrial – Business Park (LI-BP) to Specific Plan (SP).
- Approval of the Application for Zone Change to revise the zoning designation from Light Industrial (LI) to Specific Plan (SP).
- Adoption of the Specific Plan.
- Certification or approval of a California Environmental Quality Act (CEQA) Mitigated Negative Declaration.
- Development Plan Review for implementing actions of the Specific Plan.